

RETAIL SUBLEASE

between

BPC SITE 25 ASSOCIATES, LLC
as Sublandlord

- and -

FC BATTERY PARK ASSOCIATES, LLC
as Subtenant.

Dated: as of November 18th, 1998

Premises:
P/O Site 25
Battery Park City
New York, New York

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SCHEDULES

Schedule 1 - Base Rent/PILOT Schedule

EXHIBITS

- Exhibit A - Description of Land
- Exhibit B - Description of Premises, Hotel and Retail Complex
- Exhibit C - Design Guidelines
- Exhibit D - Diagram of Ground Floor Showing the Kitchen
- Exhibit E - Title Matters
- Exhibit F - Form of Subordination, Non-Disturbance and Attornment Agreement
- Exhibit G - Form of Subordination, Non-Disturbance and Attornment Agreement (Theater Operator)
- Exhibit H - Form of Subordination, Non-Disturbance and Attornment Agreement (Restaurant Operator)
- Exhibit I - Legal Description of Right-of-Way

RETAIL SUBLEASE

THIS RETAIL SUBLEASE (the "Sublease"), dated as of the 18th day of _____, 1998, by and between BPC SITE 25 ASSOCIATES, LLC, having an office c/o Forest City Ratner Companies, One MetroTech Center North, Brooklyn, New York 11201 ("Sublandlord"), and FC BATTERY PARK ASSOCIATES, LLC, a New York limited liability company having offices c/o Forest City Ratner Companies, One MetroTech Center North, Brooklyn, New York 11201 ("Subtenant"). All capitalized terms used but not otherwise defined in this Sublease shall have the meanings given such terms in the Ground Lease (hereinafter defined).

WITNESSETH:

WHEREAS, pursuant to the Master Lease, Ground Lessor holds a leasehold interest in the Land described on Exhibit A annexed hereto;

WHEREAS, pursuant to the Ground Lease between Ground Lessor and Sublandlord, Sublandlord has subleased from Ground Lessor (i) the Land, for the purpose of, inter alia, constructing the Building thereon and (ii) the Building;

WHEREAS, Sublandlord wishes to enter into (i) a sub-sublease with Subtenant of that portion of the Building more fully described in Exhibit B annexed hereto, together with an undivided interest (with Hotel Subtenant, as hereinafter defined) in the Land and in the Common Areas (as hereinafter defined) (collectively, the "Premises" or, alternatively, the "Retail Complex") and (ii) a sub-sublease (as the same may be amended from time to time, the "Hotel Sublease") with BPC Hotel, LLC (together with its successors and permitted assigns, the "Hotel Subtenant") of that portion of the Building more fully described in Exhibit B annexed hereto, together with an undivided interest (with Subtenant) in the Land and in the Common Areas (collectively, the "Hotel"); and

WHEREAS, Subtenant understands and acknowledges that, upon Substantial Completion of the Building, (i) as more fully provided in (and upon satisfaction of the conditions set forth in) Article 43 of the Ground Lease, (x) Sublandlord may submit its leasehold interest under the Ground Lease to a condominium regime, or (y) Subtenant shall execute and deliver, and Sublandlord shall cause Hotel Subtenant to execute and deliver, a Reciprocal Easement Agreement (the "REA"), thereby submitting the Land and Building to a "common law" condominium, (ii) Sublandlord may assign its interest (as tenant) in and under the Ground Lease to Ground Lessor, which Ground Lease will not merge but shall remain in effect as a lease between BPCA, as ground lessor, and BPCA, as Sublandlord, (iii) if the assignment described in the preceding subclause (ii) occurs, this Sublease shall be as between Ground Lessor (as successor-in-interest to Sublandlord), as landlord hereunder, and Subtenant, as tenant hereunder, and (iv) this Sublease shall be amended to more accurately describe the Premises, as constructed, unless such amendment is deemed unnecessary by Sublandlord.

NOW, THEREFORE, the parties hereto, for themselves, their heirs, distributees, executors, administrators, legal representatives, trustees, successors and assigns, hereby covenant and agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01 Definitions. The terms defined in this Article 1 shall, for all purposes of this Sublease, have the following meanings:

“Accounting Principles” shall mean, from time to time, then current generally accepted accounting principles, consistently applied, using (unless otherwise expressly provided for herein) the accrual method of accounting.

“Affiliate” shall mean (i)(a) any Person that has, directly or indirectly, an ownership interest in the aggregate of five percent (5%) or greater in Subtenant, or (b) any Person in which Subtenant or any Person described by clause (a) of this definition, has directly or indirectly an ownership interest in the aggregate of five percent (5%) or greater, and (ii) any individual who is a member of the immediate family (whether by birth or marriage) of an individual who is an Affiliate, which includes for purposes of this definition a spouse; a brother or sister of the whole or half blood of such individual or his spouse; a lineal descendant or ancestor (including an individual related by or through legal adoption) of any of the foregoing or a trust for the benefit of any of the foregoing.

“Annual Retail Percentage Rent Statement” shall have the meaning provided in Section 3.05(d).

“Architect” shall mean Perkins Eastman Architects PC or another licensed architect acceptable to Sublandlord.

“Assignment Date” shall mean the date on which all of the following conditions have been satisfied: (i) Sublandlord has assigned to Ground Lessor its interest as tenant under the Ground Lease; and (ii) either (y) Sublandlord has submitted its leasehold interest (under the Ground Lease) to a condominium regime, in accordance with the provisions of Article 43 of the Ground Lease, or (z) Subtenant and Hotel Subtenant have executed and delivered the REA.

“Base Rent” shall have the meaning provided in Section 3.01(a).

“BPCA” shall mean Battery Park City Authority.

“BSA” shall have the meaning provided in Section 23.02 hereof.

“Building” shall mean the building, including footings and foundations and other improvements and appurtenances of every kind and description hereafter erected, constructed or placed upon the Land including, without limitation, Equipment, Capital Improvements and any and all alterations and replacements thereof, additions thereto and substitutions therefor.

“Business Days” shall mean any day which is not a Saturday, Sunday or a day observed as a holiday by either the State of New York or the federal government.

“Business Interruption Insurance” shall have the meaning provided in Section 7.01(a)(iv).

"CAM Reimbursements" shall have the meaning provided in Section 3.09.

"Capital Improvement" shall have the meaning provided in Section 13.01.

"Certificate of Occupancy" shall mean a certificate of occupancy (temporary or permanent) issued by the Department of Buildings of New York City pursuant to Section 645 of the New York City Charter or other similar certificate issued by a department or agency of New York City.

"Certified Public Accountant" shall mean an independent certified public accountant or accounting firm selected by Subtenant and approved by Sublandlord, which approval shall not be unreasonably withheld.

"Civic Facilities" shall have the meaning provided in Article 26 hereof.

"Commencement Date" shall mean the date on which both Sublandlord and Subtenant shall have executed and delivered this Sublease.

"Common Areas" shall mean those portions of the Building that are designated as "Common" on the diagrams attached hereto as Exhibit B.

"Completion Guaranty" shall mean that certain Guaranty of Completion delivered by Forest City Enterprises, Inc. to Ground Lessor simultaneously herewith, as the same may be amended in accordance with its terms.

"Completion of the Premises" shall mean the satisfaction in full of all of the following conditions: (i) Substantial Completion of the Building, (ii) the procurement by Subtenant or by Theater Operator of all of the licenses and permits required for the occupancy of the Theater, and delivery of copies of same to Sublandlord, and (iii) the occurrence of the Theater Opening Date.

"Condominium Act" shall mean Article 9-B of the Real Property Law of the State of New York (as the same may be amended from time to time) or any statute in lieu thereof.

"Construction Commencement Date" shall mean the earlier to occur of (i) the date on which Commencement of Construction actually occurs or occurred, as confirmed in a writing signed by both Ground Lessor and Sublandlord, or (ii) the date which is three (3) months following the Commencement Date.

"Construction Documents" shall have the meaning ascribed to such term in the Ground Lease.

"Consumer Price Index" or "CPI" shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, New York, N.Y. - Northeastern N.J. Area, All Items (1982-84 = 100), or any successor or substitute index thereto, appropriately adjusted; provided that if there shall be no successor index and the parties shall fail to agree upon a substitute index within thirty (30) days, or if the parties shall fail to agree upon the appropriate adjustment of such successor or substitute index within thirty (30) days, a substitute index or the appropriate adjustment of such successor or substitute index, as the case may be, shall be determined by arbitration pursuant to Article 36.

"Declaration" shall mean the instrument by which Sublandlord submits Sublandlord's leasehold estate under the Ground Lease to the Condominium Act, together with all amendments, modifications and supplements thereto, which instrument shall be substantially in the form annexed to the Ground Lease.

"Declaration of Restrictions" shall mean that certain Declaration of Restrictions dated as of June 15, 1983 made by Ground Lessor, as amended by the Amendment and Restatement of Declaration of Restrictions dated as of May 18, 1995 made by Ground Lessor and certain tenants of Ground Lessor with respect to the World Financial Center, as the same may (subject to the provisions of Section 41.18 hereof) hereafter be amended, modified or supplemented.

"Default" shall mean any condition or event which constitutes or, after notice or lapse of time, or both, would constitute an Event of Default.

"Deficiency" shall have the meaning provided in Section 24.04(b).

"Depository" shall mean (a) a Mortgagee that qualifies as an Institutional Lender, (b) if not a Mortgagee, either (y) a commercial bank or trust company or clearing company that qualifies as an Institutional Lender and that is designated by the Mortgagee holding the most senior lien, or (z) a commercial bank or trust company or clearing company that does not qualify as an Institutional Lender but that is designated by the Mortgagee holding the most senior lien and reasonably approved by Sublandlord, or (c) if not a Mortgagee or an entity designated by a Mortgagee, a commercial bank or trust company (i) qualifying as an Institutional Lender and designated by Sublandlord. Each Depository shall be required to have an office in the City of New York and have a net worth of not less than \$100,000,000 and net assets of not less than \$250,000,000.

"Design Guidelines" shall mean the Design Guidelines annexed hereto as Exhibit C, as the same may (subject to the provisions of Section 41.18 hereof) hereafter be amended, modified or supplemented.

"Due Date" shall mean, with respect to an Imposition, the last date on which such Imposition can be paid without any fine, penalty, interest or cost being added thereto or imposed by law for the non-payment thereof.

"Environmental Statutes" shall mean all federal, state and local laws, rules and regulations, whether now existing or hereafter enacted or promulgated, regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material or the protection of the environment, including, without limitation (i) Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq. (known as CERCLA or Superfund) as amended by the Superfund Amendments and Reauthorization Act of 1986 (known as SARA); (ii) Solid Waste Disposal Act, 42 U.S.C. Section 6901 et seq. (known as SWDA) as amended by Resource Conservation and Recovery Act (known as RCRA); (iii) National Environmental Policy Act, 42 U.S.C. Section 4321 et seq. (known as NEPA); (iv) Toxic Substances Control Act, 15 U.S.C., Section 2601 et seq. (known as TSCA); (v) Safe Drinking Water Act, 42 U.S.C. Section 300(f) et seq. (known as Public Health Service Act, PHSA); (vi) Refuse Act, 33 U.S.C. Section 407 et seq.; (vii) Clean Water Act, 33 U.S.C. Section 1251 et seq. (known as Federal Water Pollution Control Act, FWPCA); (viii) Clean Air Act, 42

U.S.C. Section 7401 et seq. (known as CAA); (ix) The Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 1101 et seq. (known as EPCRTKA); (x) the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq. (known as OSHA); and (xi) the New York Environmental Conservation Law, Section 1-0101 et seq. (known as ECL).

“Equipment” shall mean all fixtures incorporated in the Premises, as the same may be repaired, replaced, substituted, upgraded or improved from time to time, including, without limitation, all machinery, dynamos, boilers, heating and lighting equipment, pumps, tanks, motors, air conditioning compressors, pipes, conduits, fittings, ventilating and communications apparatus, elevators, escalators, incinerators, garbage compactors, antennas, computers and sensors.

“Equipment” shall not mean any fixture or utilities owned by any utility company.

“ERS” shall have the meaning provided in Section 26.01(a).

“Esplanade” shall have the meaning provided in Section 26.01(a).

“Event of Default” shall have the meaning provided in Section 24.01.

“Expiration Date” shall have the meaning provided in Section 2.02.

“Fair Market Rental Value” shall have the meaning provided in Section 3.07(a).

“First Appraisal Date” shall have the meaning provided in Section 3.01(c).

“Governmental Authority (Authorities)” shall mean the United States of America, the State of New York, New York City and any agency, department, commission, board, bureau, instrumentality or political subdivision of any of the foregoing, now existing or hereafter created, having jurisdiction over the Premises or any portion thereof.

“Ground Lease” shall mean that certain lease of even date herewith between Battery Park City Authority (as Ground Lessor) and Sublandlord (as Ground Lessee) and, subject to the provisions of Section 41.18(b) hereof, any amendments, modifications and supplements thereof.

“Ground Lessee” shall mean Sublandlord or any successor to its interest under the Ground Lease.

“Ground Lessor” shall have the meaning set forth in the Recitals.

“Hotel” shall have the meaning set forth in the Recitals.

“Hotel Services Agreement” shall mean an agreement between Hotel Subtenant and the Restaurant Operator, for the provision of food and beverage services to the Hotel. The terms of the Hotel Services Agreement may be incorporated in the Kitchen Lease, in which event the references herein to a Hotel Services Agreement shall be deemed to be references to the Kitchen Lease.

“Impositions” shall have the meaning provided in Section 4.01.

“Improvement Approvals” shall have the meaning provided in Section 13.01(a).

"Indemnitees" shall have the meaning provided in Section 19.01.

"Institutional Lender" shall mean a savings bank, a savings and loan association, a commercial bank or trust company (whether acting individually or in a fiduciary capacity), an insurance company organized and existing under the laws of the United States or any state thereof, a real estate investment trust, a religious, educational or eleemosynary institution, a governmental agency, body or entity, an employee, benefit, pension or retirement plan or fund, a commercial credit corporation, an investment bank, a commercial bank or trust company acting as trustee or fiduciary of various pension funds or tax-exempt funds, or as trustee in connection with the issuance of any bonds or any other debt financing, or a corporation or other entity which is owned wholly by any other Institutional Lender or a trustee of any such commercial bank or trust company acting as such trustee, or any combination of the foregoing; provided, that each of the above entities, or any combination of such entities, shall qualify as an Institutional Lender for purposes of this Sublease only if (a) each such entity is unaffiliated with Subtenant or its Affiliates; (b) each such entity shall be subject to (i) the jurisdiction of the courts of the State of New York in any actions and (ii) the supervision of (A) as applicable the Comptroller of the Currency or the Department of Labor of the United States or the Federal Home Loan Bank Board or the Insurance Department or the Banking Department or the Comptroller of the State of New York, or the Board of Regents of the University of the State of New York, or the Comptroller of New York City or any successor to any of the foregoing agencies or officials, or (B) any agency or official exercising comparable functions on behalf of any other state within the United States, or (C) in the case of a commercial credit corporation or a real estate investment trust, the laws and regulations of the state of its incorporation, or (D) any federal, state or municipal agency or public benefit corporation or public authority advancing or insuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of improvements; and (c) each such entity, or combination of such entities, or the parent or parents of such entity or entities, shall have individual or combined assets, as the case may be, of not less than Five Hundred Million (\$500,000,000) Dollars. Sublandlord hereby agrees that the following entities qualify as Institutional Lenders for all purposes of this Lease: (w) Deutsche Bank AG, (x) German American Capital Corporation, (y) Credit Lyonnais New York Branch, and (z) Bayerische Hypo-und Vereinsbank AG, acting through its New York Branch.

"Involuntary Rate" shall mean the Prime Rate plus two percent (2%) per annum but, in no event, in excess of the maximum permissible interest rate then in effect in the State of New York.

"Kitchen Lease" shall mean a lease between Hotel Subtenant and the Restaurant Operator demising the premises shown on the diagram attached hereto as Exhibit D for the operation of a kitchen servicing the Hotel pursuant to the Hotel Services Agreement and the restaurant being operated in the premises demised under the Restaurant Lease.

"Land" shall have the meaning set forth in the Recitals.

"Landlord's Civic Facilities" shall have the meaning set forth in Section 26.01 hereof.

"Landlord's Construction Obligations" shall mean the commencement and substantial completion of the construction or installation of Landlord's Civic Facilities in accordance with the relevant provisions of the Ground Lease.

"Landlord's Maintenance Obligations" shall mean those Maintenance Obligations with respect to Landlord's Civic Facilities which, prior to the Assignment Date, the Ground Lessor shall perform and thereafter Sublandlord shall perform.

"Lease Year" shall mean the twelve-month period beginning on the Rent Commencement Date and each succeeding twelve-month period during the Term (hereinafter defined).

"Maintenance Obligations" shall mean, with respect to Landlord's Civic Facilities or Tenant's Civic Facilities, as the case may be, the obligation by Ground Lessor in the case of Landlord's Civic Facilities, or by Sublandlord (prior to the Assignment Date) or by Subtenant (following the Assignment Date) in the case of Tenant's Civic Facilities, to maintain the same in good and safe order and condition and free of accumulations of dirt, rubbish, snow and ice, and the performance of all repairs (including standard repairs, restorations and replacements) necessary to maintain same in first-class condition.

"Master Development Plan" shall mean the plan annexed to the Master Lease, as superseded and modified by the Large Scale Commercial Development Plan (also annexed to the Master Lease) and amendments thereto dated as of November 9, 1992 and as of February 28, 1995, as the same may (subject to the provisions of Section 41.18 hereof) be hereafter amended, modified or supplemented.

"Master Lease" shall mean the Restated Amended Agreement of Lease, made as of June 10, 1980, between BPC Development Corporation, as Master Lessor, and Ground Lessor, as tenant, a Memorandum of which was recorded on June 11, 1980 in the Office of the City Register, New York County in Reel 527 at page 163, as amended by First Amendment to Restated Amended Lease dated as of June 15, 1983 and recorded on June 20, 1983 in said Register's Office in Reel 696 at page 424, Second Amendment to Restated Amended Lease dated June 15, 1983 and recorded on June 20, 1983 in said Register's Office in Reel 696 at page 432, Third Amendment to Restated Amended Lease dated as of August 15, 1986 and recorded on October 22, 1986 in said Register's Office in Reel 1133 at page 569 and Fourth Lease Amendment to Restated Amended Lease dated as of May 25, 1990 and recorded on May 30, 1990 in said Register's Office in Reel 1697 at page 307, as the same may (subject to the provisions of Section 41.18 hereof) be hereafter amended, modified or supplemented.

"Master Lessor", on the Commencement Date, shall mean Ground Lessor (as successor-in-interest to BPC Development Corporation), but thereafter, "Master Lessor" shall mean only the lessor at the time in question under the Master Lease.

"Memorandum of Understanding" shall mean the Memorandum of Understanding, dated as of November 8, 1979, among the Governor of the State of New York, the Mayor of New York City and the President and Chief Executive Officer of Ground Lessor, as supplemented by Letter, dated November 8, 1979, from the President and Chief Executive Officer of Ground Lessor to the Mayor of New York City, and as amended by the 1986 Supplemental Memorandum of Understanding, dated as of August 15, 1986 among the Governor of the State of New York, the Mayor of the City of New York and Ground Lessor, and the Amendment to the Memorandum of Understanding, dated as of January 9, 1995 among the Governor of the State of New York, the Mayor of the City of New York and Ground Lessor.

"Mortgage" shall mean any mortgage which constitutes a lien on Subtenant's interest in this Sublease and the leasehold estate created hereby, provided such mortgage is held by (i) an Institutional Lender or (ii) Subtenant or a Person formerly constituting Subtenant, or such Person's assignee, if such mortgage is made to such Person in connection with an assignment by Subtenant of its interest in this Sublease expressly permitted hereunder (other than an assignment by Subtenant of its interest in this Sublease to an Affiliate).

"Mortgagee" shall mean the holder of a Mortgage.

"New York City" or the "City" shall mean The City of New York, a municipal corporation of the State of New York.

"Payment in Lieu of Taxes" or "PILOT" shall have the meaning provided in Section 3.02.

"Person" shall mean an individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any Federal, State, County or municipal government or any bureau, department or agency thereof.

"Premises" shall mean that portion of the Building depicted on Exhibit B annexed hereto, together with an undivided interest in the Land and Common Areas.

"Prime Rate" shall mean the prime or base rate announced as such from time to time by Citibank, N.A., or its successors, at its principal office. Any interest payable under this Sublease with reference to the Prime Rate shall be adjusted on a daily basis, based upon the Prime Rate in effect at the time in question, and shall be calculated on the basis of a three hundred and sixty (360) day year with twelve (12) months of thirty (30) days each.

"Prohibited Person" shall have the meaning provided in Section 10.01(c).

"Project Area" shall mean the premises demised pursuant to the Master Lease.

"Qualifying Sublease" shall mean (i) any Sub-Sublease of more than 5,000 square feet, or (ii) the Restaurant Lease, provided that the Restaurant Lease, the Kitchen Lease and the Hotel Services Agreement are cross-defaulted, and provided further that the Restaurant Lease, the Kitchen Lease and the Hotel Services Agreement provide that they are assignable (by Restaurant Operator) only simultaneously and to the same assignee, and/or (iii) any Sub-Sublease of more than 500 square feet but less than or equal to 5,000 square feet where such Sub-Subtenant is paying greater than forty dollars (\$40) per square foot (as adjusted from the date hereof for increases in the CPI) in a fit-out above a standard work letter; provided that, with respect to any Sub-Sublease described in clauses (i), (ii) or (iii) hereof, such Sub-Sublease (a) is made to an unrelated third party at a rental not less than the prevailing market rental, and (b) is in accordance with all of the requirements of this Sublease.

"Quarterly Retail Percentage Rent Statement" shall have the meaning provided in Section 3.05(a).

"REA" shall have the meaning set forth in the Recitals.

"Reappraisal Date" shall have the meaning provided in Section 3.01(c).

"Recognition Agreement" shall have the meaning provided in Section 29.02.

"Rental" or "Rent" shall have the meaning provided in Section 3.07.

"Rent Commencement Date" shall mean the Commencement Date.

"Requirements" shall have the meaning provided in Section 14.01.

"Restaurant Lease" shall mean a lease between Subtenant and the Restaurant Operator demising the premises shown on the diagram attached hereto as Exhibit D.

"Restaurant Operator" shall mean the person or entity which is (i) the tenant under both the Restaurant Lease and the Kitchen Lease and (ii) the service provider under the Hotel Services Agreement.

"Restoration" shall have the meaning provided in Section 8.01.

"Restoration Funds" shall have the meaning provided in Section 8.02(a).

"Restore" shall have the meaning provided in Section 8.01.

"Retail Percentage Gross Revenue" shall mean, as determined in accordance with Accounting Principles, all revenues received by or on behalf of Subtenant in connection with the operation of the Premises or any portion thereof, including, without limitation, the following:

(i) all revenues (in cash or in kind) received by Subtenant from sub-subtenants or concessionaires or in respect of the Premises (including from the Theater Operator) including, without limitation, any fixed or base rent, additional rent or percentage rent, without any deduction for expenses or other costs as well as any other payments received thereunder, such as lease termination payments, option payments or extension fees;

(ii) all revenues received by or on behalf of Subtenant or an Affiliate of Subtenant (1) from a utility or other company providing telephones, other telecommunication or data processing devices or vending machines in consideration of granting such provider the right to install and maintain the same in the Premises or (2) relating to the operations conducted by such Person in any portion of the Premises occupied by such Person;

(iii) any proceeds of Business Interruption Insurance coverage pursuant to Article 7 hereof;

(iv) any interest earned on deposits (to the extent retained by Subtenant), accounts or reserves maintained in connection with the operation of the Premises; and

(v) the fair market rental value of any portion of the Premises occupied by Subtenant or any of its Affiliates (other than as may be directly required for Building operations) pursuant to the provisions of Section 3.06(d) hereof.

Notwithstanding the provisions of clauses (i) through (v) herein, the term "Retail Percentage Gross Revenue" shall exclude the following items:

(A) any sums received by or on behalf of Subtenant which represent reimbursement for the loss of the use or operation of all or any portion of the Premises, such as, but not limited to, (1) insurance proceeds (other than the proceeds of Business Interruption Insurance coverage pursuant to Article 7 hereof), (2) other proceeds on account of physical damage, or (3) condemnation proceeds;

(B) applicable sales, use, excise or similar taxes or governmental charges which are collected directly from guests, customers or invitees at the Premises and are separately stated;

(C) any amounts received by or on behalf of Subtenant in reimbursement for expenses payable by Subtenant in connection with the operation of the Premises or any portion thereof to third parties other than Sublandlord, including, without limitation, charges or expenses payable to any business improvement district, condominium association or board of managers or to any utility, as well as to any Person (other than Sublandlord) of common area maintenance charges or other operating expenses; provided, however, that the foregoing exclusion shall not extend to any Rent payable to Sublandlord hereunder, including, without limitation, any PILOT or PILOST;

(D) leasing and brokerage commissions or management fees payable to Subtenant or any of its Affiliates, to the extent that such fees do not exceed the fees that would be paid to bona fide third parties in the marketplace; and

(E) except to the extent same would have been included in Retail Percentage Gross Revenues because same could reasonably be deemed a substitute or proxy for rent or other payments relating to the use or occupancy by the payor, or an Affiliate to payor, of space in the Building, payments of principal and interest received by principals of Subtenant or any Affiliate relative to construction loans or mezzanine financing provided by any such principals or Affiliates for the construction or operation of the Building or the Premises.

All revenues not herein specifically excluded from Retail Percentage Gross Revenue shall be deemed included in Retail Percentage Gross Revenue.

"Retail Percentage Rent" shall have the meaning provided in Section 3.05(a).

"Retail Percentage Rent Commencement Date" shall have the meaning provided in Section 3.05(a).

"Retail Proportionate Share" shall mean thirty-two percent (32%) as of the date hereof. At all times during the Term, the sum of the Retail Proportionate Share and the Hotel Proportionate Share (as defined in the Hotel Sublease) shall equal one hundred percent (100%). Subtenant and the Hotel Subtenant may from time to time with Sublandlord's and Ground Lessor's prior written

approval, not to be unreasonably withheld or delayed, adjust the Retail Proportionate Share and the Hotel Proportionate Share.

"Right-of-Way" shall have the meaning provided in Article 26 hereof.

"Scheduled Completion Date" shall mean that date which is thirty-six (36) months after the Construction Commencement Date, as such date may be extended for Unavoidable Delays.

"Settlement Agreement" shall mean the Settlement Agreement dated as of June 6, 1980, between the City and Ground Lessor, as supplemented by Letter, dated June 9, 1980, from Richard A. Kahan to Edward I. Koch, and amended by Amendment to Settlement Agreement dated as of August 15, 1986 between New York City and Ground Lessor; Agreement for Certain Payments dated as of June 28, 1989, between New York City and Ground Lessor; Agreement and Consent dated as of December 30, 1989, between New York City and Ground Lessor; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of May 18, 1990 between New York City and Ground Lessor; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of October 15, 1993 between New York City and Ground Lessor; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of April 10, 1995 between New York City and Ground Lessor; 1996 Agreement and Consent Pursuant to Settlement Agreement dated as of October 1, 1996 between New York City and Ground Lessor; 1998 Agreement and Consent Pursuant to Settlement Agreement dated as of May 1, 1998 between New York City and Ground Lessor, and as the same may (subject to the provisions of Section 41.18 hereof) be hereafter amended, modified or supplemented.

"Storing and Staging Letter" shall mean that certain letter agreement of even date herewith between Ground Lessor and Ground Lessee regarding the storage and staging of materials in connection with the construction of the Building.

"Sublandlord" shall mean BPC Site 25 Associates, LLC, and its successors and permitted assigns, subject however to Section 2.03 hereof.

"Sublease" shall mean this Agreement of Sublease and all amendments, modifications and supplements thereof.

"Substantially all of the Premises" shall mean such portion of the Premises as when damaged or taken would leave remaining a balance of the Premises which, due either to the area damaged or taken or the location of the part damaged or taken in relation to the part not damaged or taken, would not under economic conditions, applicable zoning laws, building regulations then existing or prevailing or the Master Development Plan or Declaration of Restrictions, permit the Restoration of the Premises so that the same would be capable of producing a fair and reasonable net annual income proportional to the number of square feet not damaged or taken. If there be any dispute as to whether or not "Substantially all of the Premises" has been damaged or taken, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36.

"Sub-Sublease(s)" shall have the meaning provided in Section 10.04.

"Sub-Subtenant(s)" shall have the meaning provided in Section 10.04.

"Taxes" shall mean the real property taxes assessed and levied against the Premises or any part thereof pursuant to the Tax Law which would otherwise be payable if the Premises or any part thereof or the owner thereof were not exempt therefrom, without exception or abatement. Notwithstanding the foregoing, subject to any governmental approvals that may be required, Subtenant shall be entitled to enjoy any exemption or abatement that is available unless such exemption or abatement is granted in connection with (x) the construction of a new building or (y) a renovation of a building in the circumstance where such building is not, or would not, have been entitled to such an exemption or abatement because it had already received an exemption or abatement in connection with the connection of such building. In the event the Premises are not separately assessed from the Hotel, Taxes shall mean the real property taxes assessed against the Building and Civic Facilities, multiplied by the Retail Proportionate Share, subject to exemption or abatement solely to the extent provided above in this paragraph.

"Tax Law" shall mean the provisions of Chapter 58 of the Charter of New York City and Chapter 2, Title 11, of the Administrative Code of The City of New York, as the same may now or hereafter be amended, or any statute or ordinance in lieu thereof.

"Tax Year" shall mean each tax fiscal year of New York City.

"Tenant's Construction Obligations" shall mean the commencement and final completion of the construction or installation of Tenant's Civic Facilities in accordance with the Construction Documents and the relevant provisions of the Ground Lease.

"Tenant's Maintenance Obligations" shall mean those Maintenance Obligations to be performed by Sublandlord (prior to the Assignment Date) and by Subtenant (following the Assignment Date) with respect to Tenant's Civic Facilities.

"Term" shall have the meaning provided in Section 2.02.

"Theater" shall mean the multiplex cinema to be constructed within the Premises (as depicted in the Design Guidelines and Construction Documents).

"Theater Operator" shall mean Regal Cinemas (or any affiliate of Regal Cinemas or successor of Regal Cinemas resulting from a merger or consolidation with Regal Cinemas) or such other operator of multiplex cinemas as Landlord shall reasonably approve in advance in writing, it being understood and agreed, however, that Landlord shall grant its approval to any operator of multiplex cinemas as (a) operates ten (10) or more theaters, with a total of no fewer than one hundred (100) screens (excluding the Theater); (b) is a first-class operator; (c) principally shows first-run films in such theaters and (d) has a net worth of at least Twenty Million Dollars (\$20,000,000), as adjusted from the date hereof for increases in the CPI.

"Title Matters" shall mean those matters affecting title to the Land set forth in Exhibit E hereto.

"Transfer" shall have the meaning provided in Section 10.01(a).

"Unavoidable Delays" shall mean (i) with respect to Subtenant or its obligations hereunder, delays incurred by Subtenant due to strikes, lockouts, work stoppages due to labor jurisdictional

disputes, acts of God, inability to obtain labor or materials due to governmental restrictions (other than any governmental restrictions which Subtenant is bound to observe pursuant to the terms of Article 40 of this Sublease), enemy action, civil commotion, fire, casualty or other causes beyond the control of Subtenant (but not including Subtenant's insolvency or financial condition), Ground Lessor's breach of its obligations under the Ground Lease or under any other agreement between Ground Lessor and Sublandlord now or hereafter made, Sublandlord's breach of its obligations under this Sublease or under any other agreement between Sublandlord and Subtenant now or hereafter made, or any delays or interference caused by Ground Lessor doing construction or performing development activities on sites other than the Premises, and (ii) with respect to Sublandlord or its obligations hereunder, delays incurred by Sublandlord due to strikes, lockouts, work stoppages due to labor jurisdictional disputes, acts of God, inability to obtain labor or materials due to governmental restrictions (other than any governmental restrictions which Sublandlord is bound to observe pursuant to the terms of this Sublease, the Ground Lease or otherwise), enemy action, civil commotion, fire, unavoidable casualty or other similar causes beyond the control of Sublandlord (but not including Sublandlord's insolvency or financial condition), Subtenant's breach of its obligations under the Sublease or under any other agreement between Sublandlord and Subtenant hereafter made, in each case provided such party shall have notified the other party not later than thirty (30) days after such party knows of the occurrence of same.

ARTICLE II

PREMISES AND TERM OF SUBLEASE; RIGHTS OF GROUND LESSOR

SECTION 2.01 Sublandlord does hereby demise and sublease to Subtenant, and Subtenant does hereby hire and take from Sublandlord, the Premises, together with all easements, appurtenances and other rights and privileges now or hereafter belonging or appertaining to the Premises, subject to the Title Matters. The Premises shall be delivered to Subtenant free and vacant of all improvements and equipment.

SECTION 2.02 TO HAVE AND TO HOLD unto Subtenant, its successors and permitted assigns, for a term of years (the "Term") commencing on the Commencement Date and expiring on June 16, 2069 or on such earlier date upon which this Sublease may be terminated as hereinafter provided (the "Expiration Date").

SECTION 2.03 NOTWITHSTANDING ANYTHING IN THIS SUBLEASE TO THE CONTRARY, EVEN PRIOR TO THE ASSIGNMENT DATE, GROUND LESSOR SHALL BE ENTITLED TO ALL RIGHTS AND REMEDIES OF SUBLANDLORD UNDER THIS SUBLEASE, INCLUDING WITHOUT LIMITATION, ALL RIGHTS TO RECEIVE NOTICES AND PAYMENTS DUE SUBLANDLORD (ANY SUCH PAYMENTS, LESS COSTS INCURRED BY GROUND LESSOR IN COLLECTION, PLUS INTEREST AT THE INVOLUNTARY RATE TO BE OFFSET AGAINST PAYMENTS DUE UNDER THE GROUND LEASE). FURTHER, EVEN PRIOR TO THE ASSIGNMENT DATE, GROUND LESSOR SHALL BE ENTITLED TO EXERCISE ALL CONSENT AND APPROVAL RIGHTS OF SUBLANDLORD CONTAINED IN THIS SUBLEASE, IT BEING UNDERSTOOD THAT ANY EXPRESS WRITTEN CONSENT OR APPROVAL GRANTED BY GROUND LESSOR WITH RESPECT TO A PARTICULAR MATTER UNDER THE GROUND LEASE SHALL

CONSTITUTE GROUND LESSOR'S CONSENT OR APPROVAL UNDER THIS SUBLEASE WITH RESPECT TO SUCH MATTER. IN THE EVENT THAT PRIOR TO THE ASSIGNMENT DATE SUBLANDLORD SHALL HAVE NOTICE OF A REQUEST FOR CONSENT OR APPROVAL (UNDER THIS SUBLEASE) WITH RESPECT TO A PARTICULAR MATTER NOT ADDRESSED IN THE GROUND LEASE, SUBLANDLORD SHALL NOTIFY GROUND LESSOR OF SUCH MATTER IN A WRITTEN NOTICE REQUESTING GROUND LESSOR'S CONSENT OR APPROVAL. NOTWITHSTANDING THE FOREGOING, GROUND LESSOR SHALL HAVE NO OBLIGATIONS HEREUNDER (IT BEING UNDERSTOOD THAT, UNTIL THE ASSIGNMENT DATE, ALL OF GROUND LESSOR'S OBLIGATIONS SHALL BE AS SET FORTH IN THE GROUND LEASE).

ARTICLE III

RENT

SECTION 3.01 (a) For the period beginning on the Rent Commencement Date and continuing thereafter throughout the Term, Subtenant shall pay to Sublandlord, without notice or demand, the annual sums referred to below (collectively, the "Base Rent"):

(i) For each Lease Year (or portion thereof) listed on Schedule 1 hereto, up to but not including the First Appraisal Date, the annual rate set forth on Schedule 1 for such Lease Year (or portion thereof).

(ii) For the Lease Year commencing on the First Appraisal Date and continuing for a period of fifteen (15) Lease Years, an amount per annum equal to the greater of (x) six percent (6%) of the product of (A) the Fair Market Rental Value of the Land, determined as hereinafter provided, and (B) the Retail Proportionate Share or (y) \$312,500.

(iii) For the Lease Year commencing on the date immediately succeeding the expiration of the period referred to in Section 3.01(a)(ii) and continuing for a period of fifteen (15) Lease Years, an amount per annum equal to the greater of (x) six percent (6%) of the product of (A) the Fair Market Rental Value of the Land and (B) the Retail Proportionate Share or (y) one hundred and twenty-five percent (125%) of the Base Rent payable in the final Lease Year of the preceding period.

(iv) For the Lease Year commencing on the date immediately succeeding the expiration of the period referred to in Section 3.01(a)(iii) and continuing for a period of fifteen (15) Lease Years, an amount per annum equal to the greater of (x) six percent (6%) of (A) the product of the Fair Market Rental Value of the Land and (B) the Retail Proportionate Share or (y) one hundred and twenty-five percent (125%) of the Base Rent payable in the final Lease Year of the preceding period.

(v) For the Lease Year commencing on the date immediately succeeding the expiration of the period referred to in Section 3.01(a)(iv) and continuing until the Expiration Date, an amount per annum equal to the greater of (x) six percent (6%) of (A) the product of the Fair Market Rental Value of the Land and (B) the Retail Proportionate Share

or (y) one hundred and twenty-five percent (125%) of the Base Rent payable in the final Lease Year of the preceding period.

(b) The Base Rent shall be payable in equal monthly installments in advance commencing on the Rent Commencement Date and on the first day of each month thereafter during the Term. The Base Rent shall be payable in currency which at the time of payment is legal tender for public and private debts in the United States of America, and shall be payable to the office of Sublandlord set forth above or at such other place in the City as Sublandlord shall direct by notice to Subtenant. The Base Rent due for any period of less than a full Lease Year, and any installment of the Base Rent due for any period of less than a full month, shall be appropriately apportioned.

(c) For the purposes of calculating Base Rent pursuant to Section 3.01(a)(ii)-(v), the Fair Market Rental Value of the Land shall be determined as of the first day of the month next succeeding the twenty-second (22nd) anniversary of the Rent Commencement Date and as of each subsequent fifteenth anniversary thereafter (such twenty-second (22nd) anniversary being referred to herein as the "First Appraisal Date", and each subsequent fifteenth anniversary being referred to herein as a "Reappraisal Date"). Such determination of Fair Market Rental Value shall be by appraisal in the manner provided in Section 3.08 hereof, unless at least twelve (12) months prior to the First Appraisal Date or any Reappraisal Date, Sublandlord and Subtenant shall have agreed upon such Fair Market Rental Value.

SECTION 3.02 Commencing on the first (1st) Lease Year and for each Lease Year through the last day of the tenth (10th) Lease Year during the Term, Subtenant shall pay to Sublandlord, without notice or demand, an annual sum (each such sum being hereinafter referred to as a "Payment in Lieu of Taxes" or "PILOT") in the amounts provided in the "Base Rent/PILOT Schedule" in Schedule 1 annexed hereto, payable in equal semi-annual installments on the first day of the first (1st) and seventh (7th) calendar month of each such Lease Year. Notwithstanding the foregoing to the contrary, however, the PILOT due for the tenth (10th) Lease Year shall include, in addition to the amount set forth in Schedule 1 for such tenth Lease Year, an additional amount equal to the amount set forth in Schedule 1 for such tenth (10th) Lease Year multiplied by a fraction, the numerator of which is the number of days from the end of such tenth (10th) Lease Year to and including the last day of the then current Tax Year and the denominator of which is 365. Thereafter, the PILOT payable by Subtenant shall be paid in equal installments before the last date or dates on which payments of Taxes, or the applicable installments thereof, are payable without interest or penalty under New York City law for such Tax Year. The amount of the PILOT payable for each Tax Year during the Term is as set forth in Schedule 1, and shall include, for the Tax Year first beginning after commencement of the eleventh (11th) Lease Year (the "Full PILOT Commencement Date") during the term hereof and for the next succeeding nine (9) Tax Years, the Recapture Amount as defined in said exhibit. Thereafter, PILOT shall be in an amount equal to Taxes. PILOT due for any period which is less than a full Tax Year shall be appropriately apportioned.

SECTION 3.03 Subtenant shall continue to pay the full amount of PILOT required under Section 3.02, notwithstanding that Subtenant may have instituted tax assessment reduction or other actions or proceedings pursuant to Section 4.06 hereof to reduce the assessed valuation of the Premises or any portion thereof. If any such assessment reduction or other action or proceeding shall result in a final determination in Subtenant's favor and if such determination is applicable to a

period after the Full PILOT Commencement Date (i) Subtenant shall be entitled to a credit against future PILOT to the extent, if any, that the PILOT previously paid for the Tax Year or Tax Years for which such final determination(s) was (or were) made exceeds the PILOT as so determined, and (ii) if such final determination is made for the then current Tax Year, future payments of PILOT for said Tax Year shall be based on the PILOT as so determined. An assessment reduction in Subtenant's favor for any Lease Year prior to the Full PILOT Commencement Date may be used to reduce the Recapture Amount, provided that Taxes used for purposes of computing the Recapture Amount shall not be below Projected Full Taxes as set forth in Schedule 1. If at the time Subtenant is entitled to receive such a credit the City of New York is paying interest on refunds of Taxes, Subtenant's credit shall include interest at the rate then being paid by the City of New York on such refunds of Taxes. In no event, however, shall Subtenant be entitled to any refund of any such excess from Sublandlord, unless Sublandlord shall have received such refund during the last Lease Year during the term hereof. In the event that Subtenant has not paid any Rent due hereunder at any time during which Subtenant is entitled to a credit under this Section 3.03, Sublandlord may offset the amount of such credit against the Rent so due.

SECTION 3.04 Subtenant shall pay to Sublandlord the Retail Civic Facilities Payment in accordance with the provisions of Section 26.04.

SECTION 3.05 (a) For the period commencing on the twenty-second (22nd) anniversary of the Construction Commencement Date (such date being hereinafter called the "Retail Percentage Rent Commencement Date") and for each Lease Year thereafter during the Term, Subtenant shall pay to Sublandlord, during each such Lease Year, an amount ("Retail Percentage Rent") equal to one-half percent (0.5%) of the Retail Percentage Gross Revenue during each such Lease Year, or portion thereof. Retail Percentage Rent shall be computed quarterly (subject to adjustment as provided in Section 3.05(d)) and paid in the manner hereinafter set forth.

(b) For the purposes of this Section 3.05, if the Retail Percentage Rent Commencement Date shall occur on a day other than the first day of a Lease Year, the first Lease Year shall be the period from the Retail Percentage Rent Commencement Date through the last day of the Lease Year in which the Retail Percentage Rent Commencement Date occurs.

(c) From and after the Retail Percentage Rent Commencement Date, Subtenant shall deliver to Sublandlord as soon as practicable after the end of each fiscal quarter in each Lease Year, but in no event later than thirty (30) days thereafter, a statement (the "Quarterly Retail Percentage Rent Statement") showing, in reasonable detail, Retail Percentage Gross Revenue from the prior fiscal quarter. Based upon the Quarterly Retail Percentage Rent Statement submitted by Subtenant to Sublandlord, Subtenant shall pay to Sublandlord the Retail Percentage Rent. Such partial payment of Retail Percentage Rent shall be made by Subtenant simultaneously with the submission to Sublandlord of the Quarterly Retail Percentage Rent Statement.

(d) Subtenant shall deliver to Sublandlord as soon as practicable after the end of each Lease Year, but, in no event, later than one hundred twenty (120) days thereafter, a separate statement (the "Annual Retail Percentage Rent Statement") for such Lease Year. If the Annual Retail Percentage Rent Statement shall show that the sums paid by Subtenant as Retail Percentage Rent for such Lease Year for which such Annual Retail Percentage Rent Statement is given were less than the Retail Percentage Rent payable by Subtenant for such Lease Year, then Subtenant shall

pay to Sublandlord, together with the delivery to Sublandlord of the Annual Retail Percentage Rent Statement, the amount of such deficiency, and if the Annual Retail Percentage Rent Statement shall show that the sums paid by Subtenant as Retail Percentage Rent for such Lease Year exceeded the Retail Percentage Rent payable by Subtenant for such Lease Year, Sublandlord shall permit Subtenant to offset the amount of such excess, without interest, against subsequent payments of Retail Percentage Rent.

SECTION 3.06 In connection with the payment by Subtenant of Retail Percentage Rent, the following provisions shall apply:

(a) From and after the Retail Percentage Rent Commencement Date, Subtenant shall at all times keep and maintain at an office located in New York City books and records prepared on the basis required under Section 3.06(b), showing, in reasonable detail, the amount of Retail Percentage Gross Revenue. Unless consented to by Sublandlord, such books and records relating to any Lease Year shall not be destroyed or disposed of for a period of four (4) years after the end of such Lease Year. Sublandlord or its representatives shall have the right during regular business hours on reasonable advance notice to examine, audit and/or photocopy all such books and records. If an audit by Sublandlord with respect to a Lease Year is not commenced within the aforesaid four (4) year period, the computation of the Retail Percentage Rent paid by Subtenant for such Lease Year shall not thereafter be subject to Sublandlord's audit and shall conclusively be deemed correct.

(b) Each Annual Retail Percentage Rent Statement and Quarterly Retail Percentage Rent Statement required under this Sublease shall be (i) prepared in accordance with Accounting Principles and (ii) verified by the chief financial officer or managing partner or managing member of Subtenant, or if the managing partner or managing member of Subtenant is not an individual, by the chief financial officer of such managing partner or managing member as being true and correct to the best of his knowledge. Each Annual Retail Percentage Rent Statement shall be certified by a Certified Public Accountant. Such certification shall include, without limitation, a statement by the Certified Public Accountant that an examination of Subtenant's books and records has been conducted by the Certified Public Accountant in accordance with generally accepted auditing standards consistently applied and that the Annual Retail Percentage Rent Statement has been prepared in accordance with Accounting Principles.

(c) If Sublandlord shall elect to conduct an audit of Subtenant's books and records and such audit discloses an underpayment of Retail Percentage Rent, other than due to a bona fide dispute governed by Section 3.06(e), Subtenant shall pay to Sublandlord, within ten (10) days after demand, the amount of such deficiency, plus interest thereon at the Involuntary Rate from the date upon which such sum was initially due through the date of actual payment. In addition, if such deficiency shall be in excess of five percent (5%) of the amount alleged by Subtenant to be payable, Subtenant shall pay to Sublandlord, within ten (10) days after demand, all reasonable costs incurred by Sublandlord in connection with such audit.

(d) In the event that Subtenant or any Affiliate of Subtenant shall themselves use or occupy (i) any space in the Building other than as an office for the management of the Building (or for purposes associated therewith) or (ii) more than 1,000 square feet in the Building as a management office in the portions of the Building not associated with the operation of the Premises,

then there shall be imputed as income the fair market rental value of (y) all such space described in clause (i) and (z) all the excess space (over 1,000 square feet) described in clause (ii). Such income, to the extent attributable to space consisting of a portion of the Premises, shall be deemed to be, and construed as, Retail Percentage Gross Revenue for all purposes of this Sublease. Fair market rental as used in this paragraph shall mean the rental which would be paid under a sublease (commencing at the same time as Subtenant's or such Affiliate's use or occupancy) with a non-related Person leasing a similar amount of space in the same Building, for the same term, for a similar purpose and in a similar location in the Building, and shall include, inter alia, all fixed, percentage and escalation rents which would be included under such sublease.

(e) If at any time and for any reason there shall be a bona fide dispute as to the determination of Retail Percentage Gross Revenue or fair market rental value pursuant to Section 3.06(d) above, such dispute shall be determined by arbitration pursuant to Article 36 hereof. Pending resolution of the dispute, Subtenant's determination of Retail Percentage Gross Revenue shall prevail and Subtenant shall pay Retail Percentage Rent based upon such determination. Without limitation of the foregoing, any deficiency, interest and expenses which may be payable by Subtenant to Sublandlord following an audit conducted by Sublandlord pursuant to Section 3.06(c) shall not be payable if disputed by Subtenant unless and until determined by such arbitration. If such arbitration determines an underpayment by Subtenant, Subtenant shall, within ten (10) days from the date of such determination, pay the amount of such underpayment, plus interest thereon at the Prime Rate from the date upon which such sum was initially due until the actual date of payment. Notwithstanding the foregoing, if arbitration has determined that (i) more than one quarter in any year, or three quarters in any two year period, Subtenant has underpaid by five percent (5%) or more, or (ii) if at any time arbitration has determined that Subtenant has underpaid by ten (10%) or more, then payment shall be at the Involuntary Rate and Subtenant shall pay to Sublandlord, within ten (10) days after demand, all reasonable costs incurred by Sublandlord in connection with such arbitration. If such arbitration determines an overpayment by Subtenant, Sublandlord shall credit to Subtenant against the next payments of Retail Percentage Rent due hereunder the amount of such overpayment.

SECTION 3.07 All amounts required to be paid by Subtenant pursuant to this Sublease, including, without limitation, Base Rent, PILOT, Retail Percentage Rent, Impositions, Retail Civic Facilities Payments and CAM Reimbursements (collectively, "Rental" or "Rent"), shall constitute rent under this Sublease and shall be payable in the same manner as Base Rent. Rental shall be absolutely net to Sublandlord without any abatement, deduction, counterclaim, set-off or offset whatsoever except as specifically set forth in this Sublease, so that this Sublease shall yield, net, to Sublandlord, Rental in each year during the Term and that Subtenant shall pay all costs, expenses and charges of every kind and nature relating to the Premises (except Taxes, if any, and the cost assumed by Sublandlord of constructing and maintaining Ground Lessor's Civic Facilities and to the extent provided in Article 26, the Right-of-Way) which may arise or become due or payable during or after (but attributable to a period falling within) the Term.

SECTION 3.08 As used herein, "Fair Market Rental Value" shall mean the fair market rental value of the Land as of the date in question, considered as unencumbered by the Master Lease, the Ground Lease, the Hotel Sublease and this Sublease and as unimproved except for Ground Lessor's Civic Facilities and other site improvements made by Ground Lessor. In addition, the determination of Fair Market Rental Value shall reflect (i) any floor area ratio

limitations imposed with respect to the Land under applicable zoning laws or the Declaration of Restrictions or to the extent limited by Ground Lessor or any other governmental agency and (ii) with respect to the time period from and after the last Reappraisal Date, the ability that any owner of the Land would have in financing the improvement thereof. Each determination of Fair Market Rental Value of the Land referred to in Section 3.01(a)(ii)-(v) shall be made in accordance with the procedures set forth in Article XVII of the Master Lease. Sublandlord shall permit Subtenant and Subtenant's representatives (including its Mortgagee or Mortgagees, if any) and witnesses, at Subtenant's cost and expense, to participate in such procedures. Sublandlord shall appoint as its appraiser under the Master Lease an appraiser designated by Subtenant provided that the appraiser so designated is qualified to act as such pursuant to the terms of the Master Lease and Subtenant shall pay the fees and expenses payable by Sublandlord pursuant to Section 17.02 of the Master Lease.

In the event that New York City shall, for any reason, fail to determine the assessed value of the Premises for any Tax Year during the Term, such assessed value shall be determined (i) in accordance with the procedures set forth in Article XVII of the Master Lease, provided that, in making such determination, the appraisers shall take into consideration the equalization rates then applicable to comparable properties situated in the Borough of Manhattan, as well as any limitations on increases in assessed value for such comparable properties prescribed by applicable law and (ii) assuming that Subtenant's share of any Building-wide assessment shall equal the Retail Proportionate Share.

SECTION 3.09 In the event that after the recordation of the Declaration or the REA, Subtenant has failed to pay its share of common charges or other amounts due under either the Declaration or the REA, and in the further event that Ground Lessor has cured such failure by payment of any such arrearage, Subtenant shall, within five (5) business days of receipt of Ground Lessor's request, reimburse Ground Lessor the full amount of such payments (such reimbursements, "CAM Reimbursements").

ARTICLE IV

IMPOSITIONS

SECTION 4.01 Except as otherwise specifically provided herein, Subtenant shall pay, as hereinafter provided, all of the following items (collectively, "Impositions") imposed by any Governmental Authority (other than a Governmental Authority acting either in its capacity as Ground Lessor under the Ground Lease or as Sublandlord under this Sublease and not in its governmental capacity): (a) real property assessments (not including Taxes), (b) personal property taxes, (c) occupancy and rent taxes, (d) water, water meter and sewer rents, rates and charges, (e) excises, (f) levies, (g) license and permit fees, (h) service charges with respect to police protection, fire protection, street and highway construction, maintenance and lighting, sanitation and water supply, if any, (i) fines, penalties and other similar or like governmental charges applicable to the foregoing and any interest or costs with respect thereto and (j) except for Taxes, any and all other governmental levies, fees, rents, assessments or taxes and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, and any interest or costs with respect thereto, which at any time during the Term are, or, if the Premises or any part thereof or the owner thereof were not exempt therefrom, would have been (1)

assessed, levied, confirmed, imposed upon or would have become due and payable out of or in respect of, or would have been charged with respect to, the Premises or any document to which Subtenant is a party creating or transferring an interest or estate in the Premises (excluding any transfer taxes (unless required by statute to be paid by the grantee or transferee where the grantor or transferor is exempt therefrom) or capital gains taxes imposed in connection with the execution of this Sublease), or the use and occupancy thereof by Subtenant and (2) encumbrances or liens on (i) the Premises, or (ii) the sidewalks or streets in front of or adjoining the Premises, or (iii) any vault (other than a vault in respect of which a utility company is obligated to pay any charge specified above or which is exempt from any such charge by reason of use thereof by any such utility company), passageway or space in, over or under such sidewalk or street, or (iv) any other appurtenances of the Premises, or (v) any personal property (except personal property which is not owned by or leased to Subtenant and except as otherwise specifically provided herein), equipment or other facility used in the operation thereof, or (vi) except as otherwise specifically provided herein, the Rental (or any portion thereof) payable by Subtenant hereunder, each such Imposition, or installment thereof, during the Term to be paid not later than five (5) Business Days prior to the Due Date thereof. However, if, by law, any Imposition may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Subtenant may exercise the option to pay the same in such installments and shall be responsible for the payment of such installments only, together with applicable interest, if any, provided that all such installment payments together with applicable interest, if any, relating to periods prior to the date definitely fixed in Article 2 hereof for the expiration of the Term shall be made prior to the Expiration Date. Subtenant shall promptly notify Sublandlord if Subtenant shall have elected to pay any such Imposition in installments.

SECTION 4.02 Subtenant, from time to time upon the request of Sublandlord, shall promptly furnish to Sublandlord copies of official receipts of the appropriate imposing authority, or other evidence reasonably satisfactory to Sublandlord, evidencing the payment thereof.

SECTION 4.03 (a) In no event shall Subtenant be obligated to pay Taxes, it being understood by Sublandlord that if the Premises or the Building shall at any time become subject to Taxes, prompt payment of same (and of any interest and penalties thereon) shall be the responsibility of (i) prior to the Assignment Date, Ground Lessor pursuant to the Ground Lease and (ii) following the Assignment Date, Sublandlord pursuant to this Sublease and the Hotel Sublease. Following the Assignment Date, Sublandlord shall indemnify Subtenant from and against the payment of Taxes, and any interest and penalties thereon and the lien thereof.

Subtenant acknowledges Ground Lessor's right to contest the imposition of Taxes to the extent set forth in Article 4 of the Ground Lease. If Ground Lessor shall exercise its right to contest the imposition of Taxes prior to the Assignment Date, Sublandlord shall promptly notify Subtenant of such contest, and, at Subtenant's request, shall promptly deliver to Subtenant copies of all applications, protest and other documents submitted by Ground Lessor to (or received by Ground Lessor from) any Governmental Authority to the extent received from Ground Lessor. If Sublandlord (whether in its capacity as Ground Lessor or Sublandlord) shall exercise its right to contest the imposition of Taxes after the Assignment Date, Sublandlord shall promptly notify Subtenant of such contest and, at Subtenant's request, shall promptly deliver to Subtenant copies of all applications, protest and other documents submitted by Sublandlord to (or received by Sublandlord from) any Governmental Authority. Sublandlord shall not, without Subtenant's

consent, consent to a settlement of any such contest if such settlement would increase the amount of PILOT payable by Subtenant under this Sublease or would alter the method for computing or affect the timing for payment of PILOT. If Ground Lessor or Sublandlord, as the case may be, shall have failed to pay the Taxes as required under the Ground Lease or this Lease and the Hotel Sublease, respectively, and shall not have timely commenced a proceeding to contest same, or shall have timely commenced a proceeding to contest the Taxes but failure to pay the Taxes during the pendency of such proceeding will result in the imminent loss or forfeiture of the Premises or the termination of Subtenant's interest under this Sublease or Subtenant would by reason thereof be subject to any civil or criminal penalty or liability (and with respect to such failure by Ground Lessor prior to the Assignment Date, such failure has not been cured by Sublandlord pursuant to the rights granted to Sublandlord in the Ground Lease), then Subtenant may on behalf of Ground Lessor (to the extent permitted by the Ground Lease) or Sublandlord, pay such unpaid Taxes together with any interest or penalties thereon and deduct such payment from the next installment of PILOT (and, to the extent, if any, that such payment shall exceed the next installment of PILOT, from the next installment(s) of Base Rent) together with interest thereon at the Involuntary Rate. If there shall be no more remaining installments of PILOT from which Subtenant under this Sublease may make deductions permitted pursuant to the preceding sentence, Sublandlord shall deduct the aggregate of such unapplied deductions from any other amounts due from Subtenant under this Sublease, and if such amounts due Sublandlord shall be less than the aggregate amount of such unapplied deductions, shall promptly pay to Subtenant the balance of any such deductions.

(b) Other than Impositions as set forth in this Sublease, nothing herein contained shall require Subtenant to pay municipal, state or federal income, gross receipts, inheritance, estate, succession, profit or transfer taxes of Ground Lessor or Sublandlord, or any corporate franchise tax imposed upon Ground Lessor or Sublandlord or any transfer or gains tax imposed on Ground Lessor or Sublandlord.

SECTION 4.04 Any Imposition relating to a period a part of which is included within the Term and a part of which is included in a period of time before the Commencement Date or after the date fixed in Article 2 hereof for the expiration of the Term (whether or not such Imposition shall be assessed, levied, confirmed, imposed upon or in respect of or become a lien upon the Premises, or shall become payable, during the Term) shall be apportioned between Sublandlord and Subtenant as of the Commencement Date or as of the date fixed for the expiration of the Term, as the case may be, so that Subtenant shall pay that portion of such Imposition which that part of such fiscal period included in the period of time after the Commencement Date or before such date fixed in Article 2 for the expiration of the Term bears to such fiscal period, and Sublandlord shall pay the remainder thereof. Other than in respect of Impositions relating, in part, to a period of time before the Commencement Date, no such apportionment of Impositions shall be made if this Sublease is terminated prior to the Expiration Date as the result of an Event of Default.

SECTION 4.05 From and after the Assignment Date, Subtenant shall have the right to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings diligently conducted in good faith, in which event, notwithstanding the provisions of Section 4.01 hereof, payment of such Imposition shall be postponed if, and only as long as:

(a) neither the Premises nor any part thereof, or interest therein or any income therefrom (except to the extent covered by security deposited in accordance with this Section 4.05)

or any other assets of, or funds appropriated to, Sublandlord would by reason of such postponement or deferment, be, in the reasonable judgment of Sublandlord, in imminent danger of being forfeited or lost or subject to any lien, encumbrance or charge, and neither Sublandlord nor Subtenant would by reason thereof be subject to any civil or criminal liability; and Subtenant shall have deposited with Depository cash or other security satisfactory to Sublandlord in the amount so contested and unpaid, together with all interest and penalties in connection therewith and all charges that may or might be assessed against or become a charge on the Premises or any part thereof in such proceedings.

(b) Upon the termination of such proceedings, it shall be the obligation of Subtenant to pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees (including attorneys' fees and disbursements), interest, penalties or other liabilities in connection therewith, and upon such payment, Depository shall promptly return, with interest, if any, any amount deposited with it as aforesaid, provided, however, that Depository at Subtenant's request or upon Subtenant's failure to do so in a timely manner, at Sublandlord's request, shall disburse said moneys on deposit with it directly to the Governmental Authority to whom such Imposition is payable and any remaining monies, with interest, if any, shall be returned promptly to Subtenant. If, at any time during the continuance of such proceedings, Sublandlord shall, in its reasonable opinion, deem insufficient the amount deposited as aforesaid, Subtenant, within fifteen (15) days after demand, shall make an additional deposit of such additional sums or other acceptable security as Sublandlord may request, and upon failure of Subtenant to do so, the amount theretofore deposited may be applied at the request of Sublandlord to the payment, removal and discharge of such Imposition and the interest and penalties in connection therewith and any costs, fees (including attorneys' fees and disbursements) or other liability accruing in any such proceedings, and the balance, if any, with any interest earned thereon, shall be returned to Subtenant or the deficiency, if any, shall be paid by Subtenant to Sublandlord within ten (10) days after demand.

SECTION 4.06 From and after the Assignment Date, Subtenant shall have the right to seek a reduction in the valuation of the Premises, if and to the extent the Premises are assessed for Taxes and to prosecute any action or proceeding in connection therewith, provided that no such action or proceeding shall affect Subtenant's obligation to pay any installment of PILOT.

SECTION 4.07 Sublandlord shall join and cooperate, and shall use reasonable efforts to cause BPCA (in its capacity as Master Lessor and Ground Lessor) to join and cooperate in any proceedings referred to in Section 4.05 or Section 4.06 hereof or permit the same to be brought in its name or the name BPCA but shall not be liable for the payment of any costs or expenses in connection with any such proceedings and Subtenant shall reimburse Master Lessor, Ground Lessor and Sublandlord for any and all costs or expenses which Master Lessor, Ground Lessor or Sublandlord may reasonably sustain or incur in connection with any such proceedings, including reasonable attorneys' fees and disbursements. In the event Subtenant shall institute a proceeding referred to in Section 4.05 or 4.06 hereof and no law, rule or regulation in effect at the time requires that Master Lessor, Ground Lessor or Sublandlord join in such proceedings or that such proceeding be brought by and/or in the name of Master Lessor, Ground Lessor or Sublandlord, Sublandlord, nevertheless, shall, at Subtenant's cost and subject to the reimbursement provisions herein above set forth, cooperate with Subtenant in such proceeding and shall use reasonable efforts to cause Master

Lessor and Ground Lessor to cooperate with Subtenant in such proceeding, to the extent reasonably necessary.

SECTION 4.08 Any certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition asserting non-payment of such Imposition shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill, at the time or date stated therein.

ARTICLE V

DEPOSITS FOR IMPOSITIONS

SECTION 5.01 In order to assure the payment of all Impositions, Subtenant, upon the demand of Sublandlord at any time after the occurrence of an Event of Default hereunder, shall deposit with the Depository on the first day of each month during the Term, an amount equal to one-twelfth (1/12th) of the annual Impositions then in effect.

(a) If at any time the monies so deposited by Subtenant shall be insufficient to pay the next installment of Impositions then due, Subtenant shall after demand therefor by Sublandlord deposit the amount of the insufficiency with Depository to enable Depository to pay the next installment of Impositions at least thirty (30) days prior to the Due Date thereof.

(b) Depository shall hold the deposited monies in a segregated, interest-bearing special account for the purpose of paying the charges for which such amounts have been deposited as they become due, and Depository shall apply the deposited monies for such purpose not later than the Due Date for such charges.

(c) If at any time the amount of any Imposition is increased or Sublandlord receives information from the entity or entities imposing such Imposition that an Imposition will be increased, and if the monthly deposits then being made by Subtenant under this Section 5.01 would be insufficient to pay such Imposition thirty (30) days prior to the Due Date thereof, then upon notice from Sublandlord to Subtenant of such fact, the monthly deposits shall thereupon be increased and Subtenant shall deposit immediately with Depository sufficient monies for the payment of the increased Imposition. Thereafter, the monthly payments shall be adjusted so that Depository shall receive from Subtenant sufficient monies to pay each Imposition at least (30) days prior to the Due Date of such Imposition.

(d) For the purpose of determining whether Depository has on hand sufficient monies to pay any particular Imposition at least thirty (30) days prior to the Due Date thereof, deposits for each category of Imposition shall be treated separately. Depository shall not be obligated to use monies deposited for the payment of an Imposition not yet due and payable for the payment of an Imposition that is due and payable.

(e) Notwithstanding the foregoing, (i) deposited monies may be held by Depository in a single bank account, provided such account is segregated and interest-bearing, (ii) Depository shall, at Sublandlord's option and direction and if there then be an Event of Default continuing

hereunder, use any monies deposited pursuant to Article 4 or Article 5 for the payment of any Rental.

(f) If this Sublease shall be terminated by reason of any Event of Default or if dispossession occurs pursuant to Section 24.03(b), all deposited monies under this Article 5 then held by Depository, shall be paid to and applied by Sublandlord in payment of any and all sums due under this Sublease and Subtenant shall promptly pay the resulting deficiency. Otherwise, all monies deposited under this Article 5, together with interest earned thereon, if any, shall be paid to Subtenant promptly after the Expiration Date.

(g) Any interest paid on monies deposited pursuant to this Article 5 shall be applied against amounts thereafter becoming due and payable by Subtenant or returned to Subtenant, as aforesaid.

(h) Anything in this Article 5 to the contrary notwithstanding, if the Event of Default which gave rise to Sublandlord having demanded that Subtenant make deposits under this Section 5.01 shall have been cured by Subtenant and for a period of six (6) consecutive months following such cure no Default shall have occurred under this Sublease, then, at any time after the expiration of such six (6) month period, promptly upon the demand of Subtenant, provided that Subtenant is not then in Default under this Sublease, Sublandlord shall use reasonable efforts to cause all monies deposited under this Article 5 then held by Depository, with the interest, if any, accrued thereon, to be returned to Subtenant and Subtenant shall not be required to make further deposits under this Article 5 unless and until there shall occur a subsequent Event of Default and Sublandlord shall make demand upon Subtenant to make deposits for Impositions.

(i) In the event that a Mortgagee (provided such Mortgagee be an Institutional Lender) shall require Subtenant to deposit funds to insure payment of Impositions, any amount required to be so deposited by Subtenant with such Mortgagee shall be credited against the amount, if any, which Subtenant would otherwise be required to deposit under this Article 5.

SECTION 5.02 If Sublandlord ceases to have any interest in the Premises, and provided that the Person acquiring Sublandlord's interest in the Premises agrees (in writing) to assume from and after the date of the transfer all of Sublandlord's obligations with respect to the deposits made pursuant to Section 5.01, Sublandlord promptly shall use reasonable efforts to cause the transfer to such Person of all of Sublandlord's rights with respect to such deposits. Upon such transfer and notice thereof to Subtenant, the transferor shall be released from all liability with respect thereto, the transferee shall assume from and after the date of such transfer all of Sublandlord's obligations with respect to such deposits and Subtenant shall look solely to the transferee with respect thereto. The provisions hereof shall apply to each successive transfer of the deposits.

SECTION 5.03 Sublandlord shall have no liability to Subtenant arising out of, or related to, any acts or omissions of Depository.

ARTICLE VI

LATE CHARGES

In the event that any payment of Rental shall become overdue beyond the due date thereof (or if such date cannot be determined from this Sublease, then such due date for purposes of this Article 6 shall be deemed to be three (3) days following the date upon which demand therefor is made), then, in addition to any costs and expenses incurred by Sublandlord in connection therewith (including, without limitation, reasonable attorneys' fees and disbursements) interest on the sums so overdue equal to the Involuntary Rate, for the period from the due date to the date of actual payment, shall become due and payable to Sublandlord as additional Rental to be paid under this Sublease. Said interest shall be payable by Subtenant within ten (10) days after demand. No failure by Sublandlord to insist upon the strict performance by Subtenant of its obligations to pay said interest shall constitute a waiver by Sublandlord of its right to enforce the provisions of this Article 6 in any instance thereafter occurring. The provisions of this Article 6 shall not be construed in any way to extend the grace periods or notice periods provided for in Article 24.

ARTICLE VII

INSURANCE

SECTION 7.01 (a) Subtenant shall, at all times from and after the Assignment Date, and thereafter throughout the Term:

(i) keep or cause to be kept the Premises insured under an "All Risk of Physical Loss" form of policy, including, without limitation, coverage for loss or damage by water, flood, subsidence and earthquake (excluding, at Subtenant's option, from such coverage normal settling only) and, when and to the extent obtainable from the United States government or any agency thereof, war risks; such insurance to be written on an "Agreed Amount" basis, with full replacement cost, with the replacement value of the Premises to be determined from time to time, but not less frequently than required by the insurer and in any event at least once every three (3) years, it being agreed that no omission on the part of Sublandlord to request any such determination shall relieve Subtenant of its obligation to determine the replacement value thereof (in the absence of such valuation, the FM (Factory Mutual) or IRI (Industrial Risk Insurers) Indices will be applied).

Any "All risk" policy carried or caused to be carried by Subtenant hereunder shall state that the valuation of any loss to be determined thereunder shall be made on a replacement cost basis and also shall contain an endorsement whereby the insurer waives all coinsurance requirements. Subtenant, with the permission of Sublandlord, may arrange this "All Risk of Physical Loss" insurance policy with a deductible of no more than One Hundred Thousand (\$100,000.00) Dollars for each loss;

(ii) provide and keep in force (or where applicable, cause its third party operators) to provide and keep in force, commercial general liability insurance against liability for bodily injury, death and property damage, it being agreed that such insurance shall (A) be in an amount as may from time to time be reasonably required by Sublandlord,

but not less than One Hundred Million Dollars (\$100,000,000) combined single limit inclusive of primary, umbrella and following form excess policies for liability for bodily injury, death and property damage, (B) include the Premises, and all streets, alleys and sidewalks adjoining or appurtenant to the Premises, (C) provide blanket automatic contractual insurance covering the indemnification provisions assumed by Subtenant hereunder, including bodily injury to employees or others assumed by Subtenant under contract, which insurance shall cover all costs, expenses and/or liability (including, without limitation, attorneys' fees and disbursements) arising out of or based upon any and all claims, accidents, injuries and damages mentioned in Article 19 and required to be insured against hereunder, (D) provide for cross liability, allowing for a claim as a named insured or under contractual liability and specifically shall include Contractual Liability, Sprinkler Leakage Legal Liability, Elevators and Escalators Liability (hereinafter described), Water Damage Legal Liability, Safe Deposit Legal Liability, Liquor Liability, Storekeeper's Legal Liability, Care and Custody Liability, Products Liability, Malpractice coverage (if medical services are provided) and Fire Legal Liability and (E) include the following protection:

(1) Broad form liability endorsement, including (a) blanket contractual liability, (b) personal injury and advertising injury liability, (c) premises medical payments, (d) host liquor liability, (e) fire legal liability on real property, (f) broad form property damage liability, including completed operations, (g) incidental medical malpractice, (h) non-owned watercraft liability, (i) limited world-wide coverage, (j) additional interests insured, (k) extended bodily injury coverage, and (l) automatic coverage on newly-acquired organizations;

(2) Products and completed operations;

(3) Independent contractors;

(4) Blanket automatic contractual liability to include bodily injury to employees of others assumed by Subtenant; and

(5) Water damage legal liability shall not be excluded.

(iii) provide and keep in force workers' compensation insurance providing statutory New York State benefits for all persons employed by Subtenant at or in connection with the Premises and employer's liability insurance in an amount not less than that required by New York State law;

(iv) provide and keep in force business interruption insurance utilizing "All Risk" coverage, including rental insurance, in an amount necessary to provide full coverage for not less than one (1) year's continuing overhead expenses (including, without limitation, Base Rent, PILOT and Retail Civic Facilities Payments), and shall include additional coverage for contingent damages in such year ("Business Interruption Insurance");

(v) if a sprinkler system shall be located in any portion of the Premises, provide and keep in force sprinkler leakage insurance in amounts approved by Sublandlord, which approval shall not be unreasonably withheld (the foregoing to be required only if same is excluded from the insurance required to be provided and kept in force pursuant to Section 7.01(a)(i));

(vi) provide and keep in force boiler and machinery insurance in an amount as may from time to time be reasonably determined by Sublandlord but not less than Ten Million Dollars (\$10,000,000) per accident on a combined basis covering direct property loss and loss of income and covering all steam, mechanical and electrical equipment, including without limitation, all boilers, unfired pressure vessels, air conditioning equipment, elevators, piping and wiring;

(vii) provide and keep in force automobile liability insurance for all owned, non-owned, leased, rented and/or hired vehicles insuring against liability for bodily injury and death and for property damage in an amount as may from time to time be reasonably determined by Sublandlord but not less than Twenty Five Million Dollars (\$25,000,000) combined single limit; and

(viii) provide and keep in force such other insurance in such amounts as may from time to time be reasonably required by Sublandlord against such other insurable hazards as at the time are commonly insured against by prudent owners of like buildings and improvements.

(b) All insurance provided by Subtenant as required by Section 7.01(a) shall name Subtenant as named insured and Sublandlord and each Mortgagee as additional insureds to the extent, where applicable, of their respective insurable interests in the Premises and shall be primary with respect to any other coverage which Sublandlord may obtain. (Ground Lessor's and Master Lessor's coverage shall be in excess of any coverage provided in favor of Sublandlord by Subtenant). The coverage provided by Subtenant as required by Sections 7.01(a)(i), (vi) and (vii) also shall name each Mortgagee as an insured under a standard mortgagee clause provided, however, any loss payable thereunder shall be payable as provided in this Sublease.

(c) Whenever Subtenant shall be required to carry insurance under this Section 7.01, Subtenant shall not be required to carry insurance in any greater amounts or against any additional hazards than at the time are commonly carried by prudent owners of like premises, provided that the types or amounts of such coverage shall never be different from or less than, as the case may be, the types or amounts specifically required hereunder unless such types or amounts are no longer available. Any dispute as to the amounts of additional insurance to be carried, or the additional kinds of hazards to be insured against, shall be resolved by arbitration pursuant to Article 36.

(d) Subtenant shall not carry separate insurance (other than personal injury liability insurance) concurrent in form or contributing in the event of loss with that required by this Sublease to be furnished by Subtenant, unless Sublandlord is included therein as additional insureds and each Mortgagee as an additional insured with loss payable as provided in this Sublease. Subtenant promptly shall notify Sublandlord of the carrying of any such separate insurance and shall cause the policies therefor or duplicate originals thereof or certificates of insurance with respect thereto together with copies of such policies to be delivered as required in this Sublease.

SECTION 7.02 (a) The loss under all policies required by any provision of this Sublease insuring against damage to the Premises by fire or other casualty shall be payable to Depository, except that, subject to the terms of any Mortgage, amounts of less than \$350,000 shall be payable in trust directly to Subtenant for application to the cost of Restoration in accordance with Article 8 hereof. Such amount shall be adjusted on the fifth (5th) anniversary of the

Commencement Date and on each fifth (5th) anniversary of the date on which an adjustment is made pursuant to this Section 7.02(a) by adding to \$350,000 an amount equal to the product of (x) \$350,000 and (y) the percent of increase, if any, in the Consumer Price Index for the month in which the applicable anniversary date occurs over the Consumer Price Index for the month in which the Commencement Date occurs. Any dispute as to the calculation of such adjustment shall be determined by arbitration pursuant to Article 36. The rental insurance portion of the Business Interruption Insurance required pursuant to Section 7.01(a) shall be carried in favor of Sublandlord, but the proceeds thereof to the extent required hereunder shall be paid to the Depository and shall be applied to the Rental payable by Subtenant under this Sublease until completion of such Restoration by Subtenant. All insurance required by any provision of this Sublease shall be in such form and shall be issued by such responsible companies authorized to do business in the State of New York as are reasonably acceptable to Sublandlord. All policies referred to in this Sublease shall be procured, or caused to be procured, by Subtenant at no expense to Sublandlord. Subject to Section 7.04 hereof, duplicate originals of such policies or certificates of insurance with respect to such policies together with copies of such policies shall be delivered to Sublandlord promptly upon receipt from the insurance company or companies, together with proof satisfactory to Sublandlord that the then current installment of the premiums thereon have been paid, provided, that Sublandlord shall not, by reason of custody of such policies, be deemed to have knowledge of the contents thereof. Binders and certificates of insurance for renewal policies replacing any policies expiring during the Term shall be delivered within thirty (30) prior to expiration and the renewal policies or copies of such policies shall be delivered as soon as practicable after expiration, together with proof satisfactory to Sublandlord that the then current installment of the premiums thereon have been paid. Premiums on policies shall not be financed in any manner whereby the lender, on default or otherwise, shall have the right or privilege of surrendering or canceling the policies or reducing the amount of loss payable thereunder, provided, however, that premiums may be paid in installments and premium financing may be utilized if applicable policies cannot be canceled on less than thirty (30) days prior written notice to Landlord.

(b) Subtenant and Sublandlord shall cooperate in connection with the collection of any insurance moneys that may be due in the event of loss, and Subtenant and Sublandlord shall execute and deliver such proofs of loss and other instruments as may be required for the purpose of obtaining the recovery of any such insurance moneys. Subtenant shall promptly reimburse Sublandlord for any and all reasonable costs or expenses which Sublandlord may sustain or incur in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

(c) All property insurance policies as required by this Sublease shall provide in substance that all adjustments for claims with the insurers in excess of Three Hundred Fifty Thousand Dollars (\$350,000) (as such amount shall be increased as provided in Section 7.02(a)) shall be made with Sublandlord, Subtenant and any Mortgagee named as additional insured and loss payee under a standard mortgagee endorsement. Subject to the terms of any Mortgage, any adjustments for claims with the insurers involving sums of less than Three Hundred Fifty Thousand Dollars (\$350,000) (as such amount shall be increased as provided in Section 7.02(a)) shall be made with Subtenant.

(d) All Business Interruption Insurance shall provide in substance that all adjustments for claims with the insurers shall be made with Sublandlord and Subtenant.

(e) Subtenant shall not violate or permit to be violated any of the conditions or provisions of any insurance policy required hereunder, and Subtenant shall so perform and satisfy or cause to be performed and satisfied the requirements of the companies writing such policies so that at all times companies of good standing, reasonably satisfactory to Sublandlord, shall be willing to write and continue such insurance.

(f) Each policy of insurance required to be obtained by Subtenant as herein provided shall contain to the extent obtainable, and whether or not an additional premium shall be required in connection therewith, (i) a provision that no act or omission or negligence of Subtenant or any other named insured or violation of warranties, declarations or conditions by Subtenant or any other named insured shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained, (ii) an agreement by the insurer that such policy shall not be canceled or modified without at least thirty (30) days prior written notice to Sublandlord and Mortgagee, (iii) an agreement that the coverage afforded by the insurance policy shall not be affected by the performance of any work in or about the Premises or the occupation or use of the Premises by Subtenant or any Sub-Subtenant for purposes more hazardous than those permitted by the terms of such policy, (iv) a waiver by the insurer of any claim for insurance premiums against Sublandlord or any named insured other than Subtenant, and (v) a waiver of subrogation by the insurers of any right to recover the amount of any loss resulting from the negligence of Subtenant, Sublandlord, Master Lessor or their respective agents, employees or licensees.

(g) All liability insurance required to be provided and kept in force by Subtenant under this Sublease shall be written on an "Occurrence" basis, provided, however, that if (i) a basis other than such "Occurrence" basis shall be adopted throughout the insurance industry and (ii) such other basis shall be accepted by most prudent owners of like buildings and improvements, then Subtenant may provide and keep in force liability insurance written on such other basis reasonably satisfactory to Sublandlord.

SECTION 7.03 Subtenant, on the demand of Sublandlord after the occurrence of an Event of Default hereunder, shall deposit with Depository on the first day of each month during the Term, an amount equal to one-twelfth (1/12th) of the annual insurance premiums to be paid in respect of any insurance required to be carried by Subtenant hereunder, as reasonably estimated by Sublandlord, unless such insurance premiums are deposited with a Mortgagee (provided such Mortgagee is an Institutional Lender). If at any time the insurance premiums shall be increased or Sublandlord receives information that the insurance premiums will be increased, with the result that the monthly deposits being paid by Subtenant under this Section 7.03(a) would be insufficient to pay such insurance premiums thirty (30) days prior to the due date, the monthly deposits shall thereupon be increased and Subtenant shall, within thirty (30) days prior to the due date thereof, deposit immediately with Depository sufficient monies for the payment of the increased insurance premiums. Thereafter, the monthly deposits shall be adjusted so that Depository shall receive from Subtenant sufficient monies to pay the insurance premiums at least thirty (30) days before the insurance premiums become due and payable.

(a) Anything in Section 7.03(a) to the contrary notwithstanding, if the Event of Default which gave rise to Sublandlord having demanded that Subtenant make deposits under Section 7.03(a) shall have been cured by Subtenant and if for a period of six (6) consecutive months following such cure no Default shall have occurred under this Sublease, then, at any time after the

expiration of such six (6) month period, promptly upon the demand of Subtenant, provided that Subtenant is not then in Default under this Sublease, all monies deposited under Section 7.03(a) then held by Depository, together with the interest, if any, accrued thereon, promptly shall be returned to Subtenant and Subtenant shall not be required to make further deposits under Section 7.03(a) unless and until there shall occur a subsequent Event of Default and Sublandlord shall make demand upon Subtenant to make deposits under Section 7.03(a).

(b) All monies deposited under this Section 7.03, together with interest earned thereon, if any, shall be paid to Subtenant promptly after the Expiration Date.

(c) Depository shall hold the monies deposited hereunder in a segregated, interest-bearing account (the purpose of which is to pay the charges for which such amounts have been deposited as they become due), and Depository shall apply the deposited monies for such purpose not later than the Due Date for such charges.

(d) In the event that a Mortgagee (provided such Mortgagee be an Institutional Lender) shall require Subtenant to deposit funds to insure payment of insurance premiums, any amount so deposited by Subtenant with such Mortgagee shall be credited against the amount, if any, which Subtenant would otherwise be required to deposit under this Article 7.

SECTION 7.04 The insurance required by this Sublease, at the option of Subtenant, may be effected by blanket or umbrella policies issued to Subtenant covering the Premises and other properties owned or leased by Subtenant, provided that the policies otherwise comply with the provisions of this Sublease and specifically allocate to the Premises the coverages required hereby, without possibility of reduction or coinsurance by reason of any other premises named therein, and if the insurance required by this Sublease shall be effected by any such blanket or umbrella policies, Subtenant shall furnish to Sublandlord and to each Mortgagee certified copies or duplicate originals of such policies in place of the originals, with schedules thereto attached showing the amount of insurance afforded by such policies applicable to the Premises, and in addition, within thirty (30) days after the filing thereof with any insurance ratemaking body, copies of the schedule of all improvements affected by any such blanket or umbrella policy of insurance.

ARTICLE VIII

USE OF INSURANCE PROCEEDS

From and after the Assignment Date (before which only the relevant provisions of the Ground Lease shall govern):

SECTION 8.01 If all or any part of the Premises shall be destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Subtenant shall give to Sublandlord immediate notice thereof, except that no notice shall be required if the estimated cost of repairs, alterations, restorations, replacements and rebuilding (collectively, "Restoration") shall be less than \$100,000 (as such amount shall be increased as provided in Section 7.02(a)), and unless such casualty shall have occurred within the last five (5) years of the Term and damaged all or Substantially all of the Premises, Subtenant shall, whether or

not such damage or destruction shall have been insured, and whether or not insurance proceeds, if any, shall be sufficient for the purpose of such Restoration, with reasonable diligence (subject to Unavoidable Delays) repair, alter, restore, replace and rebuild (collectively, "Restore") the same, at least to the extent of the value and as nearly as possible to the condition, quality and class of the Premises existing immediately prior to such occurrence, with such changes or alterations as Subtenant, with the consent of Sublandlord, which consent shall not be unreasonably withheld, shall elect to make, provided that, after the Restoration, the Premises are in substantial conformity with the Master Development Plan, the Design Guidelines, the Declaration of Restrictions (if applicable) and, in the event such Restoration is commenced within ten (10) years after the date the Building has been Substantially Completed, and insofar as the Restoration relates to the exterior of the Building or any matter addressed by the Design Guidelines, the Construction Documents. If such casualty occurs within the last five (5) years of the Term and damages all or Substantially all of the Premises, this Sublease shall terminate, Subtenant shall not be obligated to Restore the Premises and Depository shall pay over to Sublandlord all Restoration Funds. Notwithstanding anything contained in this Sublease to the contrary, none of Sublandlord, Ground Lessor or Master Lessor shall in any event be obligated to Restore the Premises, or any portion of the Premises or to pay any of the costs or expenses thereof. If Subtenant shall fail or neglect to Restore with reasonable diligence (subject to Unavoidable Delays) the Premises or the portion thereof so damaged or destroyed, or having so commenced such Restoration, shall fail to complete the same with reasonable diligence (subject to Unavoidable Delays) in accordance with the terms of this Sublease, or if prior to the completion of any such Restoration by Subtenant, this Sublease or the Ground Lease or Master Lease shall expire or be terminated in accordance with their terms and, with respect to such termination, there is no non-disturbance agreement in effect pursuant to which Subtenant shall be entitled to remain in possession, Sublandlord may, but shall not be required to, complete such Restoration at Subtenant's expense. Each such Restoration shall be done in compliance with laws and in accordance with the provisions of this Sublease. In any case where Subtenant shall fail or neglect to Restore with reasonable diligence (subject to Unavoidable Delays) the Premises or the portion thereof so damaged or destroyed, or having so commenced such Restoration, shall fail to complete the same with reasonable diligence (subject to Unavoidable Delays) in accordance with the terms of this Sublease, or if prior to the completion of any such Restoration by Subtenant, this Sublease or the Ground Lease or Master Lease shall expire or be terminated in accordance with their terms and Subtenant shall not be entitled to remain in possession pursuant to a non-disturbance agreement, Subtenant shall account to Sublandlord for all amounts spent in connection with any Restoration which was undertaken and shall pay over to Sublandlord, within ten (10) days after demand, the remainder, if any, of the Restoration Funds previously received by it and not spent in connection with the Restoration. Subtenant's obligations under this Section 8.01 shall survive the expiration or termination of this Sublease.

SECTION 8.02 (a) Subject to the provisions of Section 8.03, Section 8.04 and, if applicable, Section 8.05, Depository shall pay over to Subtenant from time to time, upon the following terms, any monies which may be received by Depository from insurance provided by Subtenant (other than Business Interruption Insurance) or cash or the proceeds of any security deposited with Depository pursuant to Section 8.05 (collectively, the "Restoration Funds"); provided, however, that Subtenant acknowledges that Depository, before paying such moneys over to Subtenant, shall be entitled to reimburse itself, Sublandlord and any Mortgagee therefrom to the extent, if any, of the necessary, reasonable and proper expenses (including, without limitation, reasonable attorneys' fees) paid or incurred by such parties in the collection of such monies.

(b) Prior to commencing any Restoration, Subtenant shall furnish Sublandlord with an estimate of the cost of such Restoration, prepared by a licensed professional engineer or registered architect selected by Subtenant and approved by Sublandlord, which approval shall not be unreasonably withheld or delayed. Sublandlord, at Subtenant's reasonable expense, may engage a licensed professional engineer or registered architect to prepare its own estimate of the cost of such Restoration. If there is any dispute as to the estimated cost of the Restoration, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36.

(c) Subject to the provisions of Section 8.03, Section 8.04 and, if applicable, Section 8.05, the Restoration Funds shall be paid to Subtenant in installments as the Restoration progresses, less retainage equal to ten percent (10%) of such installment until completion of fifty percent (50%) of the Restoration and five percent (5%) of each installment thereafter until completion of the Restoration, upon application to be submitted by Subtenant to Depository and Sublandlord showing the cost of labor and materials purchased and delivered to the Premises for incorporation in the Restoration, or incorporated therein since the last previous application, and due and payable or paid by Subtenant. If any vendor's, mechanic's, laborer's, or materialman's lien is filed against the Premises or any part thereof, or if any public improvement lien relating to the Restoration of the Premises is created or permitted to be created by Subtenant and is filed against Sublandlord or Master Lessor, or any assets of, or funds appropriated to, Sublandlord or Master Lessor, Subtenant shall not be entitled to receive any further installment until such lien is satisfied or discharged (by bonding or otherwise). Notwithstanding the foregoing, the existence of any such lien shall not preclude Subtenant from receiving any installment of Restoration Funds, provided such lien will be discharged with funds from such installment or shall have been discharged (by bonding or otherwise).

(d) Upon completion of and payment for the Restoration by Subtenant, the balance of the Restoration Fund shall be paid over to Subtenant promptly, subject to the rights of any Mortgagee to such funds.

(e) Notwithstanding the foregoing, if Sublandlord makes the Restoration at Subtenant's expense, as provided in Section 8.01, then Depository shall pay over the Restoration Funds to Sublandlord upon request, to the extent not previously paid to Subtenant pursuant to this Section 8.02, and Subtenant shall pay to Sublandlord within ten (10) days after demand, any sums in excess of the portion of the Restoration Funds received by Sublandlord necessary to complete the Restoration. Upon completion of the Restoration, Sublandlord shall deliver to Subtenant a certificate, in reasonable detail, setting forth the expenditures made by Sublandlord for such Restoration.

SECTION 8.03 The following shall be conditions precedent to each payment made to Subtenant as provided in Section 8.02 above:

(a) There shall be submitted to Depository and Sublandlord the certificate of the aforesaid engineer or architect approved by Sublandlord pursuant to Section 8.02(b) stating that (i) the sum then requested to be withdrawn either has been paid by Subtenant or is due and payable to contractors, subcontractors, materialmen, engineers, architects or other Persons (whose names and addresses shall be stated) who have rendered or furnished services or materials for the work and giving a brief description of such services and materials and the principal subdivisions or categories

thereof and the several amounts so paid or due to each of said Persons in respect thereof, and stating in reasonable detail the progress of the work up to the date of said certificate, (ii) no part of such expenditures has been or is being made the basis, in any previous or then pending requisition, for the withdrawal of the Restoration Funds or has been made out of the Restoration Funds previously received by Subtenant, and (iii) the engineer or architect believes that the balance of the Restoration Funds held by Depository will be sufficient to pay for the completion of the Restoration in full, and stating in reasonable detail an estimate of the cost of such completion;

(b) there shall be furnished to Sublandlord an official search, or a certificate of a title insurance company reasonably satisfactory to Sublandlord, or other evidence reasonably satisfactory to Sublandlord, showing that there has not been filed any vendor's, mechanic's, laborer's or materialman's statutory or other similar lien affecting the Premises or any part thereof or any part of either the Premises, or any public improvement lien with respect to the Premises or the Restoration created or permitted to be created by Subtenant affecting Sublandlord and Master Lessor, or the assets of, or funds appropriated to, Sublandlord and Master Lessor, which has not been discharged of record (by bonding or otherwise) except such as will be discharged upon payment of the requisite amount out of the sum then requested to be withdrawn; and

(c) at the time of making such payment, there is no Event of Default on the part of Subtenant.

SECTION 8.04 (a) If any loss, damage or destruction occurs, the cost of Restoration of which equals or exceeds Three Hundred Fifty Thousand Dollars (\$350,000) in the aggregate, determined as provided in Section 8.02(b) (as such amount shall be increased as provided in Section 7.02(a)), Subtenant shall furnish to Sublandlord the following:

(i) at least thirty (30) Business Days prior to commencement of such Restoration, complete plans and specifications for the Restoration, prepared by the Architect or by a licensed professional engineer or registered architect selected by Subtenant and approved by Sublandlord which approval shall not be unreasonably withheld or delayed, together with the approval thereof and any required permits issued by any Governmental Authority with respect to the Restoration and such plans and specifications, and, at the request of Sublandlord any other drawings, information or samples, which Sublandlord may reasonably request, all of the foregoing to be subject to Sublandlord's review and approval for substantial conformity with the Master Development Plan, the Design Guidelines and the Declaration of Restrictions (if applicable), such review and approval to be conducted by Sublandlord within the time periods and otherwise in accordance with the provisions of this Section 8.04, and, if such Restoration is commenced within ten (10) years from the date the Building shall have been Substantially Completed and insofar as the Restoration relates to the exterior of the Building or any matter addressed by the Design Guidelines, the Construction Documents;

(ii) at least ten (10) Business Days prior to commencement of such Restoration, (x) a contract or construction management agreement reasonably satisfactory to Sublandlord and in form collaterally assignable to Sublandlord (subject to any prior assignment to any Mortgagee), made with a reputable and responsible contractor or construction manager approved by Sublandlord, which approval shall not be unreasonably withheld or delayed, providing for the completion of the Restoration in accordance with said plans and specifications, free and clear of all

liens, encumbrances, security agreements, interests and financing statements relating thereto, and (y) payment and performance bonds in forms and by sureties satisfactory to Sublandlord, naming the contractor as obligor and Sublandlord and Subtenant and Mortgagee, if applicable, as obligees, each in a penal sum equal to the amount by which (A) the difference between the estimated cost of the Restoration and the amount of the insurance proceeds available for the Restoration exceeds (B) \$350,000 (as such amount shall be increased as provided in Section 7.02(a)) or, in lieu thereof, such other security, but not more than the amount of such excess, as shall be reasonably satisfactory to Sublandlord;

(iii) at least ten (10) Business Days prior to commencement of such Restoration, a collateral assignment to Sublandlord (subject to any prior assignment to any Mortgagee) of the contract so furnished and the bonds, if any, provided thereunder, such assignment to be duly executed and acknowledged by Subtenant and by its terms to be effective only upon any termination of this Sublease or upon Sublandlord's re-entry upon the Premises following an Event of Default prior to the complete performance of such contract, such assignment also to include the benefit of all payments made on account of said contract including payments made prior to the effective date of such assignment; and

(iv) at least ten (10) Business Days prior to commencement of such Restoration, insurance policies issued by responsible insurers, bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to Sublandlord of such payments, for insurance required by Section 11.03 of the Ground Lease with respect to the initial construction of the Building.

(b) Notwithstanding that the cost of Restoration is less than Three Hundred Fifty Thousand Dollars (\$350,000) (as such amount shall be increased as provided in Section 7.02(a)), such cost to be determined as provided in Section 8.02(b), to the extent that any portion of the Restoration involves work on the exterior of the Building or a change in the height, bulk or setback of the Building from the height, bulk or setback existing immediately prior to the damage or destruction, or in any other manner affects compliance with the Master Development Plan, the Design Guidelines or the Declaration of Restrictions (if applicable), then Subtenant shall furnish to Sublandlord at least thirty (30) Business Days prior to commencement of the Restoration a complete set of plans and specifications for the Restoration, involving such work or such change, prepared by Architect or a licensed professional engineer or registered architect approved by Sublandlord, which approval shall not be unreasonably withheld or delayed, and, at Sublandlord's request, such other items designated in Section 8.04(a)(i), all of the foregoing to be subject to Sublandlord's review and approval as provided therein.

(c) In the event Subtenant shall desire to modify the plans and specifications which Sublandlord theretofore have approved pursuant to Section 8.04(a)(i) or Section 8.04(b) with respect to, or which will in any way affect, any aspect of the exterior of the Building or the height, bulk or setback of the Building or which will affect compliance with the Design Guidelines, the Master Development Plan or the Declaration of Restrictions (if applicable), Subtenant shall submit the proposed modifications to Sublandlord. Subtenant shall not be required to submit to Sublandlord and Sublandlord shall have no right to approve proposed modifications of the plans and specifications which affect the interior of the Building, provided, however, that such proposed modifications would not in any manner affect compliance with the Master Development Plan, the

Design Guidelines or the Declaration of Restrictions (if applicable). Sublandlord shall review the proposed changes (other than changes to the interior of the Building) for the sole purpose of determining whether or not they (i) conform to the Master Development Plan, the Design Guidelines, and the Declaration of Restrictions (if applicable) and (ii) in Sublandlord's judgment reasonably exercised, provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications, and shall approve such proposed changes if they do so conform and so provide. If Sublandlord determines that the proposed changes are not satisfactory in light of the above criteria, Sublandlord shall so advise Subtenant specifying in what respect the plans and specifications, as so modified, do not conform to the Master Development Plan, the Design Guidelines, or the Declaration of Restrictions (if applicable) or do not provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications. Within twenty (20) Business Days after Sublandlord shall have so notified Subtenant, Subtenant shall revise the plans and specifications so as to meet Sublandlord's objections and shall deliver same to Sublandlord for review. Each initial review by Sublandlord shall be carried out within fifteen (15) Business Days of the date of delivery of the initial plans and specifications by Subtenant, and each additional review by Sublandlord shall be carried out within ten (10) Business Days of the date of delivery of Subtenant's revisions thereto, and if Sublandlord shall not have notified Subtenant of its determination within such fifteen (15) or ten (10) Business Day period, as the case may be, it shall be deemed to have determined that the proposed changes are satisfactory. Sublandlord shall not review portions of the approved plans and specifications which Sublandlord has previously determined to be satisfactory, provided same have not been changed by Subtenant.

SECTION 8.05 If the cost of any Restoration, determined as provided in Section 8.02(b), exceeds the greater of (i) Three Hundred Fifty Thousand Dollars (\$350,000) (as such amount shall be increased as provided in Section 7.02(a)) and (ii) the net insurance proceeds, then, prior to the commencement of such Restoration, unless Sublandlord has given its approval of the payment and performance bonds provided for in Section 8.04(a)(ii)(y) and the amounts thereof cover such excess, Subtenant shall deposit with Depository, as security for completion of the Restoration, a bond, cash or other security satisfactory to Sublandlord in the amount by which (A) such excess exceeds (B) \$350,000 (as such amount shall be increased as provided in Section 7.02(a)), to be held and applied by Depository in accordance with the provisions of Section 8.02, as security for the completion of the Restoration.

SECTION 8.06 Subject to Section 8.01 hereof, this Sublease shall not terminate or be forfeited or be affected in any manner, and there shall be no reduction or abatement of the Rental payable hereunder, by reason of damage to or total, substantial or partial destruction of the Premises or by reason of the untenability of the same or any part thereof, for or due to any reason or cause whatsoever, and Subtenant, notwithstanding any law or statute present or future, waives any and all rights to quit or surrender the Premises or any part thereof. Subject to the provisions of Section 8.01 hereof regarding termination of this Sublease for a casualty occurring in the last five (5) years of the Term, Subtenant expressly agrees that its obligations hereunder, including, without limitation, the payment of Rental, shall continue as though the Premises had not been damaged or destroyed and without abatement, suspension, diminution or reduction of any kind. It is the intention of Sublandlord and Subtenant that the foregoing is an "express agreement to the contrary" as provided in Section 227 of the Real Property Law of the State of New York.

SECTION 8.07 If for any completed Restoration Subtenant has not theretofore delivered same to Sublandlord, Subtenant shall deliver to Sublandlord within thirty (30) days of the completion of such Restoration, a complete set of "as built" plans thereof together with a statement in writing from a registered architect or licensed professional engineer that such plans are complete and correct.

ARTICLE IX

CONDEMNATION

From and after the Assignment Date (before which the relevant provisions of the Ground Lease shall govern, except that a termination of the Ground Lease pursuant to Section 9.01(a) of the Ground Lease shall terminate this Sublease):

SECTION 9.01 (a) If the whole or Substantially all of the Premises shall be taken (excluding a taking of the fee interest in the Premises, or any leasehold interest superior to that of the Subtenant's, if after such taking, Subtenant's rights and obligations under this Sublease are not affected) for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain, or by agreement among Sublandlord, Subtenant and those authorized to exercise such right, then this Sublease and the Term shall terminate and expire on the date of such taking and the Rental payable by Subtenant hereunder shall be equitably apportioned as of the date of such taking.

(b) If the whole or Substantially all of the Premises shall be taken or condemned as provided in Section 9.01(a), the award, awards or damages in respect thereof shall be apportioned as follows: (i) there shall first be paid to Sublandlord so much of the award which is for or attributable to the value of (A) the Land so taken, considered as encumbered by this Sublease, the Ground Lease and the Master Lease (but as unimproved, except as provided in the following subclause (B)), and (B) Landlord's Civic Facilities taken in any proceeding with respect to such taking; (ii) there shall next be paid to the Mortgagee which holds a first lien on Subtenant's interest in this Sublease, so much of the balance of such award as shall equal the unpaid principal indebtedness secured by such Mortgage with interest thereon at the rate specified therein to the date of payment, and all other amounts then due under such Mortgage; (iii) there shall next be paid to Sublandlord so much of the award which is for or attributable to the value of Sublandlord's reversionary interest in that part of the Premises and any easements granted herein and appurtenant to the Premises taken in such proceeding (it being agreed between Ground Lessor, Sublandlord and Subtenant that, notwithstanding anything herein contained to the contrary, until forty (40) years from the Scheduled Completion Date, the value of Sublandlord's reversionary interest in the Premises shall be deemed to be zero); and (iv) subject to the rights of any Mortgagees, Subtenant shall receive the balance, if any, of the award. If there be any dispute as to which portion of the award is attributable to the Land and Civic Facilities and which portion is attributable to the Premises, or as to the value of Sublandlord's reversionary interest in the Premises, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36.

(c) Each of the parties shall execute any and all documents that may be reasonably required in order to facilitate collection by them of such awards.

SECTION 9.02 For purposes of this Article 9, the "date of taking" shall be deemed to be the earlier of (i) the date on which actual possession of the whole or Substantially all of the Premises, or a part thereof, as the case may be, is acquired by any lawful power or authority pursuant to the provisions of the applicable federal or New York State law or (ii) the date on which title to the Premises or the aforesaid portion thereof shall have vested in any lawful power or authority pursuant to the provisions of the applicable federal or New York State law.

SECTION 9.03 If less than Substantially all of the Premises shall be so taken, this Sublease and the Term shall continue as to the portion of the Premises remaining without abatement of the Base Rent or any diminution of any of Subtenant's obligations hereunder. Subtenant, whether or not the award or awards, if any, shall be sufficient for the purpose shall (subject to Unavoidable Delays) proceed diligently to Restore any remaining part of the Premises not so taken so that the latter shall be a complete, operable, self-contained architectural unit in good condition and repair in conformity with the Master Development Plan, the Design Guidelines, the Declaration of Restrictions (if applicable) and, to the extent reasonably practicable, in the event such Restoration is commenced within ten (10) years from the date the Building is Substantially Completed, the Construction Documents. In the event of any taking pursuant to this Section 9.03, the entire award for or attributable to (A) the Land taken, considered as encumbered by the Ground Lease, the Master Lease and this Sublease (but as unimproved, except as provided in the following subclause (B)), and (B) the fair market value of Landlord's Civic Facilities in any proceeding with respect to such taking, shall be first paid to Sublandlord, and the balance of the award, if any, shall be paid to Depository, except that if such balance shall be less than Three Hundred Fifty Thousand Dollars (\$350,000) (as such amount shall be increased as provided in Section 7.02(a)), such balance shall be payable, in trust, to Subtenant (provided that if the Master Lease or a Mortgage requires payment in trust to Master Lessor or a Mortgagee, such balance shall be paid as provided therein) for application to the cost of Restoration of the part of the Premises not so taken. Subject to the provisions and limitations in this Article 9, Depository shall make available to Subtenant as much of that portion of the award actually received and held by Depository, if any, less all necessary and proper expenses paid or incurred by Depository, the Mortgagee most senior in lien and Sublandlord in the condemnation proceedings, as may be necessary to pay the cost of Restoration of the part of the Premises remaining. Such Restoration shall be done in accordance with and subject to the provisions of Article 8. Payments to Subtenant as aforesaid shall be disbursed in the manner and subject to the conditions set forth in Article 8. Any balance of the award held by Depository and any cash and the proceeds of any security deposited with Depository pursuant to Section 9.04 remaining after completion of the Restoration shall (subject to the rights of Subtenant's Mortgagees) be paid to Subtenant. Each of the parties shall execute any and all documents that may be reasonably required in order to facilitate collection by them of such awards.

SECTION 9.04 With respect to any Restoration required by the terms of Section 9.03, the cost of which, as determined in the manner set forth in Section 8.02(b), exceeds both (i) Three Hundred Fifty Thousand Dollars (\$350,000) (as such amount shall be increased as provided in Section 7.02(a)) and (ii) the balance of the condemnation award after payment of the expenses set forth in Section 9.03, then, prior to the commencement of such Restoration, Subtenant shall deposit with Depository a bond, cash or other security satisfactory to Sublandlord in the amount by which (A) such excess exceeds (B) \$350,000 (as such amount shall be increased as provided in Section 7.02(a)), to be held and applied by Depository in accordance with the provisions of Section 9.03, as security for the completion of the Restoration.

SECTION 9.05 If the temporary use of the whole or any part of the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement between Subtenant and those authorized to exercise such right, Subtenant shall give prompt notice thereof to Sublandlord and the Term shall not be reduced or affected in any way and Subtenant shall continue to pay in full the Rental payable by Subtenant hereunder without reduction or abatement, and Subtenant shall be entitled to receive for itself any award or payments for such use, provided, however, that:

(a) If the taking is for a period not extending beyond the Term and if such award or payment is made less frequently than in monthly installments, the same shall be paid to and held by Depository as a fund which Depository shall apply from time to time to the payment of Rental, except that, if such taking results in changes or alterations in the Premises which would necessitate an expenditure to Restore the Premises to its former condition, then, a portion of such award or payment considered by Sublandlord, in its reasonable opinion, as appropriate to cover the expenses of the Restoration shall be retained by Depository, without application as aforesaid, and applied and paid over toward the Restoration of the Premises to its former condition, substantially in the same manner and subject to the same conditions as provided in Section 9.03; and any portion of such award or payment which shall not be required pursuant to this Section 9.05(a) to be applied to the Restoration of the Premises or to the payment of Rental until the end of the Term (or, if the taking is for a period terminating prior to the end of the Term, until the end of such period) shall (subject to the rights of Subtenant's Mortgagees) be paid to Subtenant; or

(b) If the taking is for a period extending beyond the Term, such award or payment shall be apportioned between Sublandlord and Subtenant as of the Expiration Date, and Sublandlord's and Subtenant's share thereof, if paid less frequently than in monthly installments, shall be paid to Depository and applied in accordance with the provisions of Section 9.05(a), provided, however, that the amount of any award or payment allowed or retained for the Restoration of the Premises and not previously applied for such purpose shall remain the property of Sublandlord if this Sublease shall expire prior to such Restoration.

SECTION 9.06 In case of any governmental action, not resulting in the taking or condemnation of any portion of the Premises but creating a right to compensation therefor, such as the changing of the grade of any street upon which the Building abuts, this Sublease shall continue in full force and effect without reduction or abatement of Rental and the award shall be paid to Sublandlord to the extent of the amount, if any, necessary to restore any portion of Landlord's Civic Facilities to their former condition and any balance remaining, shall (subject to the rights of Subtenant's Mortgagees) be paid by Sublandlord to Subtenant.

SECTION 9.07 In the event of a negotiated sale of all or a portion of the Premises in lieu of condemnation with the consent of Sublandlord and Subtenant, the proceeds shall be distributed as provided in cases of condemnation.

SECTION 9.08 Sublandlord, Subtenant and any Mortgagee shall be entitled to file a claim and otherwise participate in any condemnation or similar proceeding and all hearings, trials and appeals in respect thereof.

SECTION 9.09 Notwithstanding anything to the contrary contained in this Article 9, in the event of any permanent or temporary taking of all or any part of the Premises, Subtenant shall have the exclusive right to assert claims for any trade fixtures and personal property so taken which were the property of Subtenant and for relocation expenses of Subtenant, and all awards and damages in respect thereof shall belong to Subtenant, and Sublandlord hereby waives any and all claims to any part thereof, provided, however, that if there shall be no separate award or allocation for such trade fixtures or personal property, then such claims of Subtenant, or awards and damages, shall be subject and subordinate to, and shall not in any way diminish, Sublandlord's claims under this Article 9.

ARTICLE X

ASSIGNMENT, SUBLETTING, MORTGAGES, ETC.

SECTION 10.01 (a) Except as otherwise specifically provided in this Article 10, prior to Completion of the Building and the date on which the obligations set forth in the Completion Guaranty shall have been performed in full, neither this Sublease nor any interest of Subtenant in this Sublease, shall be sold, assigned, or otherwise transferred, whether by operation of law or otherwise, nor, if Subtenant is a corporation, shall any of the issued or outstanding capital stock of such corporation or of any corporation owning a controlling interest in Subtenant, whether held directly or indirectly, be (voluntarily or involuntarily) sold, assigned, transferred, pledged or encumbered, whether by operation of law or otherwise, if such sale, assignment, transfer, pledge or encumbrance will result in a change of the controlling stock ownership of Subtenant as held by the shareholders thereof as of the Commencement Date, nor shall any voting trust or similar agreement be entered into with respect to such stock, nor any reclassification or modification of the terms of such stock take place, nor shall there be any merger or consolidation of such corporation into or with another corporation nor shall additional stock (or any warrants, options or debt securities convertible, directly or indirectly, into such stock) in any such corporation be issued if the issuance of such additional stock (or such other securities, when exercised or converted into stock) will result in a change of the controlling stock ownership of such corporation as held by the shareholders thereof as of the Commencement Date, nor, if Subtenant is a partnership or limited liability company, shall any general partner's interest in such partnership or managing member's interest in such limited liability company, or of any partnership or limited liability company owning a controlling interest in Subtenant, whether directly or indirectly, be (voluntarily or involuntarily) sold, assigned or transferred (each of the foregoing transactions with respect to stock or other securities of a corporation or a general partner's or managing member's interest in a partnership or limited liability company, respectively, being herein referred to as a "Transfer"), nor shall Subtenant sublet the Premises as an entirety or substantially as an entirety without the consent of Sublandlord in each case, which consent shall be given or withheld in the sole and absolute discretion of Sublandlord, and the delivery to Sublandlord of the documents and information specified in Section 10.01(d) hereof. Notwithstanding the preceding sentence to the contrary, an equity interest in Subtenant (or corporation owning a controlling interest or general partner's interest or managing member's interest or any partnership or any limited liability company owning a controlling interest in Subtenant) may be pledged or hypothecated to any lender providing financing to Sublandlord (prior to the Assignment Date) or to Subtenant in connection with the initial construction or in connection with the operation of the Building. For purposes of this Article

10, "control" or a "controlling interest" shall mean either (a) ownership of fifty percent (50%) or more of the voting interests in the subject entity or (b) the power to make management decisions on behalf of the subject entity.

(b) From and after Completion of the Building and subject to the provisions of this Section 10.01, including delivery to Sublandlord of the documents and information specified in Section 10.01(d) hereof, Subtenant shall not assign this Sublease or any interest of Subtenant in this Sublease (whether by operation of law or otherwise), sublet the Premises as an entirety or substantially as an entirety (as opposed to a Sublease for less than substantially all of the space), or enter into or effect any Transfer, without first obtaining Sublandlord's approval, which approval shall not be unreasonably withheld, delayed or conditioned, unless the assignee, sublessee or Transferee with respect to such transaction controls, is controlled by, or is under common control with, Subtenant, in which case Subtenant shall give Sublandlord prior written notice of such transaction but shall not be required to obtain the approval of Sublandlord with respect thereto. Subtenant shall not be permitted to assign this Sublease, further sublet the Premises or any portion thereof or effect any Transfer if a Default shall have occurred and then be continuing hereunder, unless such Default is cured simultaneously with such Transfer, assignment or subletting and Subtenant has obtained Sublandlord's approval as hereinabove provided.

(c) Except as otherwise specifically provided herein, in no event, whether before or after Completion of the Building, shall Subtenant make a Transfer, assign this Sublease or any portion of its interest hereunder (whether by operation of law or otherwise) or further sublet the Premises as an entirety or substantially as an entirety (whether or not for occupancy by the Subtenant thereunder) to any Person (hereinafter, a "Prohibited Person") in which an ownership interest, in the aggregate, of five percent (5%) or greater is then held, directly or indirectly, by any individual (i) who has ever been convicted of a felony, (ii) against whom any action or proceeding is pending to enforce rights of the State of New York or any agency, department, public authority or public benefit corporation thereof arising out of a mortgage obligation to the State of New York or to any such agency, department, public authority or public benefit corporation or (iii) with respect to whom any notice of substantial monetary default which remains uncured has been given by the State of New York or any agency, department, public authority or any public benefit corporation thereof arising out of a mortgage obligation to the State of New York or to any such agency, department, public authority or public benefit corporation. The determination by Sublandlord whether or not a person is a Prohibited Person shall be made within thirty (30) days after receipt of all requisite information and documentation reasonably required for such determination. If Sublandlord shall not have notified Subtenant of such determination within such period, it shall be deemed to have determined that such Person is not a Prohibited Person.

(d) In each instance wherein Subtenant desires to effect an assignment, or a sublease which is a Qualifying Sublease, or a sublease of the Premises as an entirety or substantially as an entirety, or a Transfer, then, in each such case, Subtenant shall, prior to the effective date of such transaction, notify Sublandlord of the proposed transaction and submit to Sublandlord the following documents and information (which documents may be unexecuted but shall, in all other respects, be in substantially final form):

(i) in the case of an assignment, (A) a copy of the proposed instrument(s) of assignment, containing, inter alia, the name, address and telephone number of the assignee,

(B) a copy of the proposed instrument(s) of assumption of Subtenant's obligations under this Sublease by said assignee, and (C) an affidavit of the assignee or an authorized officer or general partner thereof, setting forth (x) in the case of a partnership or limited liability company, the names and addresses of all general partners or managing members thereof and all other partners or members of the assignee having a five percent (5%) or greater ownership interest in the assignee and (y) in the case of a corporation (other than a corporation whose common stock is traded on a recognized exchange or over-the-counter exchange or is registered under the Securities Act of 1933, as amended) the names and addresses of all persons having five percent (5%) or greater record ownership of stock in, and all directors and officers of, the assignee;

(ii) in the case of a Qualifying Sublease or a subletting of the Premises as an entirety or substantially as an entirety (except for occupancy by the Subtenant thereunder), (A) a copy of the proposed sublease, containing, inter alia, the name, address, and telephone number of the subtenant and (B) an affidavit of the subtenant or an authorized officer or general partner thereof, setting forth the same information with respect to the partners, members, shareholders, officers and directors of the subtenant as is required with respect to assignees under Section 10.01(d)(i);

(iii) in the case of a Transfer, (A) a copy of each material, proposed document by which such Transfer is to be accomplished redacted so as to conceal any confidential terms not material to consideration by Sublandlord of the proposed Transfer, and (B) an affidavit of an authorized officer or general partner of Subtenant, setting forth the same information with respect to the partners, members, shareholders, officers and directors of Subtenant as is required with respect to assignees under Section 10.01(d)(i); and

(iv) in all such cases, such other material documents and information as Sublandlord may reasonably request to permit Sublandlord to determine whether such assignment, sublease or Transfer is in accordance with the provisions of this Article 10.

In the event any of the foregoing information presented to Sublandlord is identified by Subtenant in writing as being confidential, Sublandlord shall keep such information confidential, provided that Sublandlord shall be entitled to divulge such information if required by law, or to its consultants, advisors, accountants, attorneys or other professionals, if same is otherwise material to the evaluation of such proposed transaction.

- Sublandlord shall within thirty (30) days after receipt of all requisite information and documentation, notify Subtenant whether it grants its consent if such consent is required hereunder, and, where such consent may not be withheld in Sublandlord's sole and absolute discretion, specifying, in the event that Sublandlord denies its consent to such transaction or determines that any such documentation or any such information does not establish such compliance, the reason for such denial or determination. If Sublandlord shall not have notified Subtenant of such denial or determination within such period, it shall be deemed to have consented to the proposed transaction if such consent is required and to have determined that the documents and the information submitted establish compliance with the provisions of Section 10.01(c) and Section 10.01(d). Subtenant shall promptly deliver to Sublandlord executed documents substantially the same as those previously delivered to Sublandlord for review.

(e) Subject to compliance by a Mortgagee with the provisions of Section 10.10 and Section 10.11 hereof, the foregoing requirement of consent by Sublandlord shall not apply to the acquisition of the Premises by such Mortgagee, or by any designee or nominee of such Mortgagee through the foreclosure of its Mortgage or through a deed or instrument of transfer delivered in lieu of such foreclosure, or by the winning bidder (or its designee, nominee or assignee) in a foreclosure sale by the Mortgagee of its Mortgage, so long as such Mortgagee (or designee, nominee, assignee or winning bidder or other Person) shall, in the instrument transferring to such Mortgagee the interest of Subtenant hereunder, assume and agree to perform all of the terms, covenants and conditions of this Sublease thereafter to be observed or performed by Subtenant. Each reference in this Section 10.01(e) to "Mortgagee" shall be deemed to include a wholly owned subsidiary (directly or indirectly) of such Mortgagee or of its direct parent, provided such Mortgagee has delivered to Sublandlord (and prior to the Assignment Date, Ground Lessor) a written notice advising that such a subsidiary should be so deemed and certifying (i) that such subsidiary is wholly owned (directly or indirectly) by such Mortgagee or its direct parent and (ii) that such subsidiary is authorized to act in the place and stead of such Mortgagee.

(f) Notwithstanding the foregoing or any other provision of this Sublease to the contrary, Sublandlord's consent to any assignment of this Sublease or any Transfer shall not be required (whether prior to or following Completion of the Building) if the assignee or transferee is one hundred percent (100%) owned directly or indirectly by one or more FCR Persons (as hereinafter defined), provided that Subtenant shall have given Sublandlord not less than fifteen (15) days' notice and Subtenant shall have furnished evidence reasonably satisfactory to Sublandlord that such assignee or transferee (1) is 100% owned by one or more FCR Persons, (2) is controlled by a Ratner (as hereinafter defined), meaning that one of the Ratners has the power to make decisions for such assignee or transferee whether by voting or otherwise, (3) has sufficient financial capability to perform all of the obligations of Tenant hereunder, such obligations to be assumed by such party, and (4) is not a Prohibited Person. As used in this Sublease, the term "FCR Persons" shall mean Forest City Enterprises, Inc., Forest City Rental Properties, Inc., Bruce Ratner, Albert Ratner, James Ratner, Charles Ratner, Michael Ratner (each, a "Ratner"), any parent, spouse, direct lineal or adoptive descendant, sibling, niece, nephew of a Ratner, any entity that is 100% owned and controlled by any of the foregoing Persons, and any trust established by a Ratner for the benefit of any of the foregoing individuals.

SECTION 10.02 No assignment of this Sublease, further subletting of the Premises as an entirety or substantially as an entirety or Transfer shall have any validity except upon compliance with the provisions of this Article 10.

SECTION 10.03 Any consent by Sublandlord under Section 10.01 above shall apply only to the specific transaction thereby authorized and shall not relieve Subtenant from any requirement hereunder of obtaining the consent of Sublandlord to any further sale or assignment of this Sublease or Transfer or further subletting of the Premises as an entirety or substantially as an entirety.

SECTION 10.04 Subtenant may, without Sublandlord's consent, at any time, and from time to time, enter into agreements for the rental of space in the Premises, or the occupancy of such space pursuant to licenses or concessions for periods shorter than or equal to the remainder of the Term at the time of such agreements, provided that such rental or occupancy is not of all or

substantially all of the Premises to any single Person and/or its Affiliates (all of such agreements being herein referred to collectively as "Sub-Subleases", and the occupants pursuant to Subleases as "Sub-Subtenants"). Each Sub-Sublease shall obligate the Sub-Subtenant pursuant thereto to occupy and use the premises included therein for purposes consistent with the Requirements, the Master Lease, the Ground Lease, this Sublease, the Certificate of Occupancy and the Master Development Plan. Subtenant shall, consistent with prudent business judgment, enforce all of its rights as the sub-sublandlord under all Sub-Subleases in accordance with the terms thereof, including, without limitation, those provisions regarding the use, occupancy and repair and maintenance of the subject premises, as well as the compliance of the subject premises with law and with the Design Guidelines, compliance with all of which provisions is a material inducement for Sublandlord to enter into this Sublease.

SECTION 10.05 The fact that a violation or breach of any of the terms, provisions or conditions of this Sublease, the Ground Lease or of the Master Lease results from or is caused by an act or omission by any Sub-Subtenant or any other occupant of the Premises shall not relieve Subtenant of Subtenant's obligation to cure the same. Subtenant shall take any and all reasonable steps necessary to prevent any such violation or breach.

SECTION 10.06 Sublandlord, after an Event of Default by Subtenant, may, subject to the rights of any Mortgagee (provided such Mortgagee is an Institutional Lender), collect subrent and all other sums due under Sub-Subleases, and apply the net amount collected to Rental, but no such collection shall be, or be deemed to be, a waiver of any agreement, term, covenant or condition of this Sublease or the acceptance by Sublandlord of any further Sub-Subtenant as tenant hereunder, or a release of Subtenant from performance by Subtenant of its obligations under this Sublease.

SECTION 10.07 To secure the prompt and full payment by Subtenant of the Rental and the faithful performance by Subtenant of all the other terms and conditions herein contained on its part to be kept and performed, Subtenant hereby assigns, transfers and sets over unto Sublandlord, subject to any assignment of Sub-Subleases and/or rents made in connection with any Mortgage (provided the Mortgagee thereunder is an Institutional Lender), all of Subtenant's right, title and interest in and to all further Sub-Subleases and hereby confers upon Sublandlord, its agents and representatives, a right of entry in, and sufficient possession of, the Premises to permit and insure the collection by Sublandlord of the rentals and other sums payable under any further Sub-Subleases. The exercise of the right of entry and qualified possession by Sublandlord shall not constitute an eviction of Subtenant from the Premises or any portion thereof and, should said right of entry and possession be denied Sublandlord, its agent or representative, to the extent permitted by applicable law, Sublandlord, in the exercise of such right, may use all requisite force to gain and enjoy the same without responsibility or liability to Subtenant, its servants, employees, guests or invitees, or any Person whomsoever. The assignment made herein shall become operative and effective only if (a) an Event of Default shall occur and remain uncured, or (b) this Sublease and the Term shall be canceled or terminated pursuant to the terms, covenants and conditions hereof by reason of an Event of Default, or (c) there occurs repossession under a dispossession warrant or other re-entry or repossession by Sublandlord under the provisions hereof or applicable law, and then only as to such of the Sub-Subleases that Sublandlord has agreed to take over and assume.

SECTION 10.08 At any time and from time to time but not more than twice in any Lease Year, upon Sublandlord's demand, Subtenant promptly shall deliver to Sublandlord a

schedule of all Sub-Subleases, setting forth the names of all Sub-Subtenants. Upon the reasonable request of Sublandlord, Subtenant shall permit Sublandlord and its agents and representatives to inspect all Sub-Subleases and, at Sublandlord's expense, to make copies thereof; provided, however, that all information furnished to Sublandlord hereunder shall be subject to the confidentiality provisions set forth in Section 41.24 hereof.

SECTION 10.09 All further Subleases shall provide that (a) they are subject to this Sublease, the Ground Lease and to the Master Lease, (b) the Sub-Subtenants will not pay rent or other sums under the Sub-Subleases for more than one (1) month in advance (excluding security and other deposits required under such Sub-Subleases), and (c) at Sublandlord's option, on the termination of this Sublease (i) the Sub-Subtenants will attorn to, or enter into a direct sublease on identical terms with, Sublandlord, and (ii) Sublandlord shall require either that Subtenant pays over the existing Sub-Subtenants' security deposits to Sublandlord, or Sub-Subtenants pay over new security deposits to Sublandlord. With respect to any Qualifying Sublease, at the request of Subtenant, Sublandlord and the Sub-Subtenant thereunder shall execute an agreement substantially in the form annexed hereto as Exhibit F (the "Non-Disturbance and Attornment Agreement").

Within fifteen (15) Business Days after Subtenant submits to Sublandlord a copy of a Sub-Sublease (which may be unexecuted but which shall, in all other respects be in final form), Sublandlord shall notify Subtenant whether same is a Qualifying Sublease. If Sublandlord shall determine that such Sub-Sublease is a Qualifying Sublease, then, promptly after notice to Subtenant of such determination, Sublandlord and such Sub-Subtenant each shall duly execute, acknowledge and deliver to one another one or more counterparts of the Non-Disturbance and Attornment Agreement. If Sublandlord shall determine that same is not a Qualifying Sublease, Sublandlord shall together with its notice to Subtenant specify the reason for such determination. If there be any dispute as to whether any Sub-Sublease is a Qualifying Sublease, such dispute shall be resolved by arbitration in accordance with the provisions of Article 36. Notwithstanding anything in this Section 10.09 to the contrary, Sublandlord agrees to deliver (or has delivered) to Theater Operator a Non-Disturbance and Attornment Agreement in the form of Exhibit G annexed hereto and Subtenant acknowledges that Sublandlord has no further obligations with respect to the Theater Operator or its Sub-Sublease except as set forth in said agreement. In addition, notwithstanding anything in this Section 10.09 to the contrary, Sublandlord agrees to deliver to the Restaurant Operator (or to any substitute Restaurant Operator) a Non-Disturbance and Attornment Agreement in the form of Exhibit H annexed hereto. Subtenant hereby acknowledges that Sublandlord has no obligations with respect to the Theater Subtenant, the Restaurant Operator or their respective Subleases except as is (or shall be) set forth in said non-disturbance and attornment agreements.

SECTION 10.10 (a) Subtenant shall have the right to mortgage or otherwise encumber Subtenant's interest in this Sublease and all Sub-Subleases. If Subtenant shall so mortgage Subtenant's interest in this Sublease to a Mortgagee, Subtenant or such Mortgagee shall give Sublandlord (and if the mortgage is granted prior to the Assignment Date, Ground Lessor) prompt notice of such Mortgage and furnish Sublandlord (and, if the mortgage is granted prior to the Assignment Date, Ground Lessor) with a complete and correct copy of each such Mortgage (and of any assignment, modification, consolidation or extension thereof), certified as such by Subtenant or such Mortgagee, together with the name and address of such Mortgagee. After receipt of the foregoing, Sublandlord shall give to such Mortgagee (and if prior to the Assignment Date, to Ground Lessor at its address set forth in the Ground Lease), at the address of such Mortgagee set

forth in such notice, and otherwise in the manner provided in Article 25, a copy of each notice of Default at the same time as, and whenever, any such notice of Default shall thereafter be given by Sublandlord to Subtenant, and no such notice of Default by Sublandlord shall be deemed to have been duly given to Subtenant unless and until a copy thereof shall have been so given to each Mortgagee (and if prior to the Assignment Date, to Ground Lessor at its address set forth in the Ground Lease). Each Mortgagee (i) shall thereupon have a period of fifteen (15) Business Days more than given to Subtenant in each instance in the case of a Default in the payment of Rental and thirty (30) days more than given to Subtenant in each instance in the case of any other Default, for remedying the Default, or causing the same to be remedied, or causing action to remedy a Default mentioned in Sections 24.01(b) or (c) to be commenced, and (ii) shall, within such periods and otherwise as herein provided, have the right to remedy such Default, cause the same to be remedied or cause action to remedy a Default mentioned in Sections 24.01(b), or (c) to be commenced. Sublandlord shall accept performance by a Mortgagee (or its designee, nominee or assignee) of any covenant, condition or agreement on Subtenant's part to be performed hereunder and the exercise by a Mortgagee (or its designee, nominee or assignee) of Subtenant's self-help remedies with the same force and effect as though performed or exercised by Subtenant. Notwithstanding the foregoing, or any other provision of this Sublease to the contrary, the amount of any Rental paid by any Mortgagee electing to cure Subtenant's Default in the payment of Rental shall be net of (and reduced by the amount of) the proceeds drawn under any letter of credit then held by Sublandlord with respect solely to such Default (and not with respect to any other damage suffered by Sublandlord); provided, however, that if Sublandlord draws on such a letter of credit and it is subsequently finally determined that Sublandlord was not entitled to draw on such letter of credit and must refund the proceeds thereof, Sublandlord's right to any Rental that would have been paid by such Mortgagee, but for this sentence, shall be reinstated in full as of the date of such refund, together with interest on the amount of such Rental from the date due to the date payment of such Rental is actually made by such Mortgagee, but only to the extent Landlord was required to disgorge and refund any interest earned on the proceeds drawn under the letter of credit.

(b) Notwithstanding the provisions of Section 10.10(a) hereof, no Default by Subtenant shall be deemed to exist as long as a Mortgagee within fifteen (15) Business Days after the expiration of the time given to Subtenant pursuant to the provisions of this Sublease to remedy the event or condition which would otherwise constitute a Default hereunder, shall have delivered to Sublandlord its written agreement to take the action described in clause (i) or (ii) herein and thereafter, in good faith, shall have commenced promptly either (i) to cure the Default and to prosecute the same to completion (subject to Unavoidable Delays), or (ii) if possession of the Premises is required in order to cure the Default, to institute foreclosure proceedings and obtain possession directly or through a receiver, and to prosecute such proceedings with diligence and continuity (subject to Unavoidable Delays) and, upon obtaining such possession, commence promptly to cure the Default and to prosecute the same to completion with diligence and continuity (subject to Unavoidable Delays), provided that during the period in which such action is being taken (and any foreclosure proceedings are pending), all of the other obligations of Subtenant under this Sublease, to the extent they are reasonably susceptible of being performed by the Mortgagee, are being performed. However, at any time after the delivery of the aforementioned agreement, the Mortgagee may notify Sublandlord, in writing, that it has relinquished possession of the Premises or that it will not institute foreclosure proceedings or, if such proceedings have been commenced, that it has discontinued them, and in such event, the Mortgagee shall have no further liability under such agreement from and after the date it delivers such notice to Sublandlord (except for any obligations

accruing prior to the date it delivers such notice), and, thereupon, Sublandlord shall have the unrestricted right to terminate this Sublease and to take any other action it deems appropriate by reason of any Default, and upon any such termination the provisions of Section 10.11 shall apply. Notwithstanding anything herein contained to the contrary, provided such Mortgagee shall have otherwise complied with the provisions of this Section 10.10, such Mortgagee shall have no obligation to cure any Defaults which are not susceptible to being cured by such Mortgagee.

(c) Except as provided in Section 10.10(b), no Mortgagee shall become liable under the provisions of this Sublease unless and until such time as it becomes, and then only for as long as it remains, the owner of the leasehold estate created hereby. In the event that a Mortgagee shall become the owner of such leasehold estate, such Mortgagee shall not be bound by any modification or amendment of this Sublease made subsequent to the date of the Mortgage and delivery to Sublandlord of the notice provided in Section 10.10(a) hereof and prior to its acquisition of such interest unless the Mortgagee shall have expressly consented to such modification or amendment in writing at the time it was made or at the time of such acquisition. In no event shall this Sublease be amended without the prior written consent of Subtenant's Mortgagees.

(d) Subtenant shall deliver a copy of any Mortgage satisfaction to Sublandlord promptly upon the execution and delivery thereof.

SECTION 10.11 (a) In the case of termination of this Sublease by reason of any Event of Default, Sublandlord shall give prompt notice thereof to each Mortgagee whose name and address Sublandlord has received pursuant to notice made in compliance with the provisions of Section 10.10(a), at the address of such Mortgagee set forth in such notice, and otherwise in the manner provided in Article 25. Sublandlord, on written request of such Mortgagee made any time within sixty (60) days after the giving of such notice by Sublandlord, shall promptly execute and deliver a new sublease of the Premises to the Mortgagee, or its designee or nominee, for the remainder of the Term upon all the covenants, conditions, limitations and agreements herein contained, provided that such Mortgagee (i) shall pay to Sublandlord, simultaneously with the delivery of such new sublease, all unpaid Rental due under this Sublease up to and including the date of the commencement of the term of such new sublease and all expenses, including, without limitation, reasonable attorneys' fees and disbursements and court costs, incurred by Sublandlord in connection with the Default by Subtenant, the termination of this Sublease and the preparation of the new sublease, and (ii) shall cure, or agree in writing within thirty (30) days from the delivery of such new sublease to cure, all Defaults existing under this Sublease which are susceptible of being cured by such Mortgagee.

(b) Any such new sublease and the leasehold estate thereby created shall, subject to the same conditions contained in this Sublease, continue to maintain the same priority as this Sublease with regard to any mortgage, including any fee mortgage, on the Premises or any part thereof or any other lien, charge or encumbrance thereon whether or not the same shall then be in existence and shall maintain the same priority as this Sublease with regard to any Sub-Subleases. Concurrently with the execution and delivery of such new sublease, Sublandlord shall assign to the subtenant named therein all of its right, title and interest in and to moneys (including insurance and condemnation proceeds and unapplied Sub-Sublease rents, if any, then held by or payable to Sublandlord or Depository which Subtenant would have been entitled to receive but for termination

of this Sublease, and any sums then held by or payable to Depository shall be deemed to be held by or payable to it as Depository under the new sublease.

(c) Upon the execution and delivery of a new sublease under this Section 10.11, all Sub-Subleases which theretofore have been assigned to, or made by, Sublandlord shall be assigned and transferred, without recourse, by Sublandlord to the subtenant named in such new sublease. Between the date of termination of this Sublease and the date of execution of the new sublease, if a Mortgagee shall have requested such new sublease as provided in Section 10.11(a), Sublandlord shall not cancel any Sub-Subleases or accept any cancellation, termination or surrender thereof (unless such termination shall be effected as a matter of law on the termination of this Sublease) or enter into a new Sublease or new Sub-Subleases without the consent of the Mortgagee.

(d) If there is more than one Mortgage, Sublandlord shall only recognize the Mortgagee whose Mortgage is senior in lien and which has requested a new sublease of the Premises within the time period set forth in Section 10.11(a) as the Mortgagee entitled to the rights afforded by this Section 10.11, provided that either Subtenant or such Mortgagee shall have given Sublandlord notice of such Mortgage in compliance with the provisions of Section 10.10(a).

ARTICLE XI

CONSTRUCTION OF BUILDING

Pursuant to the Ground Lease, Sublandlord is obligated, among other things, to construct the Building (including the Retail Complex, the Hotel and the Common Areas) and Tenant's Civic Facilities. The parties acknowledge that Sublandlord may assign its interest in the Ground Lease to Ground Lessor in connection with (and only in connection with) the execution, delivery and filing of the Declaration or the REA, as more fully provided in the Ground Lease. Completion of construction of the Building shall be performed in compliance with all applicable Requirements.

ARTICLE XII

REPAIRS

SECTION 12.01 Except to the extent any of the following constitute Landlord's Civic Facilities, Subtenant shall, at its sole cost and expense, put and keep in good condition and repair the Premises and shall put, keep and maintain the Premises in good and safe order and condition, and make all repairs therein and thereon, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary or appropriate to keep the same in good and safe order and condition, and whether or not necessitated by wear, tear, obsolescence or defects, latent or otherwise, provided, however, that Subtenant's obligations with respect to Restoration resulting from a casualty or condemnation shall be as provided in Article 8 and Article 9 hereof. In addition, Subtenant shall, either itself or through an entity jointly controlled by Subtenant and the Hotel Subtenant (i.e., through a condominium board of managers or jointly or through an analogue to a board of managers under the REA), repair all water, sewer and gas connections and pipes and mains which are located on or service the Premises (unless the City of New York or a public utility company is obligated to maintain or repair same) and appurtenances thereto, all sidewalks adjacent

to the Premises, vaults (other than vaults which are under the control of, or are maintained or repaired by, a utility company) and all sidewalk hoists. Subtenant shall not commit or suffer, and shall use all reasonable precaution to prevent, waste, damage or injury to the Premises. When used in this Section 12.01, the term "repairs" shall include all necessary replacements, alterations and additions. All repairs made by Subtenant shall be at least equal in quality and class to the original work and shall be made free and clear of all liens and encumbrances and in compliance with (a) all Requirements (including, but not limited to, Local Law No. 5, 1973, as amended, and Local Law 58, 1988, as amended), (b) the requirements of the New York Board of Fire Underwriters or any successor thereto, and (c) the Building Code of New York City, as then in force.

SECTION 12.02 Except as otherwise specifically provided in Article 26, Subtenant, at its sole cost and expense, shall keep or cause to be kept clean and free from dirt, snow, ice, rubbish, obstructions and encumbrances, the sidewalks adjacent to the Premises, grounds, chutes and sidewalk hoists comprising, in front of, or adjacent to, the Premises.

SECTION 12.03 Except as otherwise specifically provided in Article 26, Sublandlord shall not be required to furnish any services, utilities or facilities whatsoever to the Premises, nor shall Sublandlord have any duty or obligation to make any alteration, change, improvement, replacement, Restoration or repair to, nor to demolish, the Premises. Subtenant assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Premises and, together with the Hotel Subtenant, pursuant to the Declaration or the REA, assures joint and several responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Common Areas. Subtenant shall not clean nor require, permit, suffer nor allow any window in the Premises to be cleaned from the outside in violation of Section 202 of the Labor Law or of the rules of the Industrial Board or other state, county or municipal department board or body having jurisdiction.

ARTICLE XIII

CHANGES, ALTERATIONS AND ADDITIONS

SECTION 13.01 From and after the Assignment Date (before which only the relevant provisions of the Ground Lease shall govern), Subtenant shall not demolish, replace or materially alter the Premises or any part thereof (except as provided to the contrary with respect to Equipment in Article 15), or make any addition thereto, whether voluntarily or in connection with repairs required by this Sublease (collectively, "Capital Improvement"), unless Subtenant shall comply with the following requirements and, if applicable, with the additional requirements set forth in Section 13.02:

(a) No Capital Improvement shall be undertaken until Subtenant shall have procured from all Governmental Authorities and paid for all permits, consents, certificates and approvals for the proposed Capital Improvement which are required to be obtained prior to the commencement of the proposed Capital Improvement (collectively, "Improvement Approvals"). Sublandlord shall join or otherwise cooperate in the application for any such Improvement Approvals, provided such application is made without cost, expense or liability (contingent or otherwise) to Sublandlord. True copies of all such Improvement Approvals shall be delivered by Subtenant to Sublandlord prior to commencement of the proposed Capital Improvement.

(b) All Capital Improvements, when completed, shall be of such a character as not to materially reduce the value of the Premises below its value immediately before construction of such Capital Improvement.

(c) All Capital Improvements shall be made with reasonable diligence and continuity (subject to Unavoidable Delays) and in a good and workmanlike manner and in compliance with (i) all Improvement Approvals, (ii) the Master Development Plan, the Design Guidelines, the Declaration of Restrictions (if applicable) and if required pursuant to Section 13.02(a) or Section 13.02(b), the plans and specifications for such Capital Improvement as approved by Sublandlord, (iii) the orders, rules, regulations and requirements of any Board of Fire Underwriters or any similar body having jurisdiction, and (iv) all other Requirements.

(d) No construction of any Capital Improvements shall be commenced until Subtenant shall have delivered to Sublandlord original insurance policies, or certificates of insurance with respect to such policies together with copies of such policies, issued by responsible insurers authorized to do business in the State of New York as are reasonably acceptable to Sublandlord, bearing notations evidencing the payment of premiums or installments thereof then due or accompanied by other evidence story to Sublandlord of such payments. If, under the provisions of any casualty, liability or other insurance policy or policies then covering the Premises or any part thereof, any consent to such Capital Improvement by the insurance company or companies issuing such policy or policies shall be required to continue and keep such policy or policies in full force and effect, Subtenant, prior to the commencement of construction of such Capital Improvement, shall obtain such consents and pay any additional premiums or charges therefor that may be imposed by said insurance company or companies.

SECTION 13.02 (a) If the estimated cost of any proposed Capital Improvement shall exceed Five Hundred Thousand Dollars (\$500,000) (as such amount shall be increased as provided in Section 7.02(a)), either individually or in the aggregate with other Capital Improvements which are a related portion of a program or project of Capital Improvements constructed in any twelve (12) month period during the Term, Subtenant shall:

(i) pay to Sublandlord, within ten (10) days after demand, the reasonable fees and expenses of any architects or engineers selected by Sublandlord to review the plans and specifications describing the proposed Capital Improvement and inspect the work on behalf of Sublandlord; and

(ii) furnish to Sublandlord the following:

(iii) at least forty-five (45) Business Days prior to commencement of the proposed Capital Improvement, complete plans and specifications for the Capital Improvement, prepared by a licensed professional engineer or a registered architect approved by Sublandlord, which approval shall not be unreasonably withheld, and, at the request of Sublandlord, any other drawings, information or samples which Sublandlord reasonably requests, all of the foregoing to be subject to Sublandlord's review and approval for the sole purpose of determining conformity with the Master Development Plan, the Design Guidelines, the Declaration of Restrictions (if applicable) and, in the event such

Capital Improvement is commenced within ten (10) years from the date the Building shall have been Substantially Completed, the Construction Documents;

(x) at least ten (10) Business Days prior to commencement of the proposed Capital Improvement, (1) a contract or construction management agreement reasonably satisfactory to Sublandlord in form collaterally assignable to Sublandlord (subject to any prior assignment to any Mortgagee), made with a reputable and responsible contractor or construction manager approved by Sublandlord, which approval shall not be unreasonably withheld or delayed, providing for the completion of the Capital Improvement in accordance with the schedule included in the plans and specifications, free and clear of all liens, encumbrances, security agreements, interests and financing statements, and (2) payment and performance bonds or other security, in each case satisfying the requirements of Section 8.04(a)(ii) hereof; and

(y) at least ten (10) Business Days prior to commencement of the proposed Capital Improvement, an assignment to Sublandlord (subject to any prior assignment to any Mortgagee) of the contract so furnished and the bonds or other security provided thereunder, such assignment to be duly executed and acknowledged by Subtenant and by its terms to be effective only upon any termination of this Sublease or upon Sublandlord's re-entry upon the Premises or following any Event of Default prior to the complete performance of such contract, such assignment also to include the benefit of all payments made on account of such contract, including payments made prior to the effective date of such assignment.

(b) Notwithstanding that the cost of any Capital Improvement is less than Five Hundred Thousand Dollars (\$500,000) (as such amount shall be increased as provided in Section 7.02(a)), such cost to be determined as provided in Section 8.02(b), to the extent that any portion of the Capital Improvement involves structural work or work involving the exterior of the Building or a change in the height, bulk or setback of the Building from the height, bulk or setback existing immediately prior to the Capital Improvement or which in any other manner affects compliance with the Master Development Plan, the Declaration of Restrictions (if applicable) or the Design Guidelines, then Subtenant shall furnish to Sublandlord at least thirty (30) Business Days prior to commencement of the Capital Improvement, complete plans and specifications for the Capital Improvement, prepared by a licensed professional engineer or registered architect approved by Sublandlord, which approval shall not be unreasonably withheld, and, at Sublandlord's request, such other items designated in Section 13.02(a)(ii)(w) hereof, all of the foregoing to be subject to Sublandlord's review and approval as provided therein. In addition, Subtenant shall pay to Sublandlord the reasonable fees and expenses of any independent architect or engineer selected by Sublandlord to review the plans and specifications describing the proposed Capital Improvement and inspect the work on behalf of Sublandlord.

(c) Sublandlord shall notify Subtenant of Sublandlord's determination with respect to any request for approval required under this Section 13.01 within fifteen (15) Business Days of the later of (i) Sublandlord's receipt of such request from Subtenant or (ii) Sublandlord's receipt of the plans and specifications and the drawings, information or samples which Sublandlord shall have requested in accordance with Section 13.02(a)(ii)(w). Sublandlord's failure to so notify Subtenant within said time period shall be deemed to constitute approval of the proposed Capital Improvement by Sublandlord.

(d) In the event that Subtenant shall desire to modify the plans and specifications which Sublandlord theretofore has approved pursuant to Section 13.02(a)(ii)(w) or 13.02(b) with respect to, or which will in any way affect, any aspect of the exterior of the Building or the height, bulk or setback thereof or which will affect compliance with the Design Guidelines, the Declaration of Restrictions (if applicable) or the Master Development Plan, Subtenant shall submit the proposed modifications to Sublandlord. Subtenant shall not be required to submit to Sublandlord proposed modifications of the plans and specifications which affect solely the interior of the Building or which do not affect any aspect of the exterior of the Building or the height, bulk or setback thereof or which do not affect compliance with the Design Guidelines, the Declaration of Restrictions (if applicable) or the Master Development Plan. Sublandlord shall review the proposed changes for the sole purposes of determining whether or not they (i) conform to the Master Development Plan, the Design Guidelines and the Declaration of Restrictions (if applicable) and (ii) in Sublandlord's judgment, reasonably exercised, provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications and shall approve such proposed changes if they do so conform and so provide. If Sublandlord determines that the proposed changes are not satisfactory in light of the above criteria, Sublandlord shall so advise Subtenant and shall specify in what respect the plans and specifications, as so modified, do not conform to the Master Development Plan, the Design Guidelines, or the Declaration of Restrictions (if applicable) or do not provide for design, finishes and materials which are comparable in quality to those provided for in the approved plans and specifications. Within fifteen (15) Business Days after Sublandlord shall have so advised Subtenant, Subtenant shall revise the plans and specifications so as to meet Sublandlord's objections and shall deliver same to Sublandlord for review. Each initial review by Sublandlord shall be carried out within fifteen (15) Business Days of the date of initial delivery of the plans and specifications, as so revised (or one or more portions thereof), by Subtenant and such additional review by Sublandlord shall be carried out within ten (10) Business Days of the date of delivery of any revisions thereto, and if Sublandlord shall not have notified Subtenant of its determination within such periods, it shall be deemed to have determined that the proposed changes are satisfactory. Sublandlord shall not review portions of the approved plans and specifications which Sublandlord has previously determined to be satisfactory, provided same have not been changed by Subtenant.

SECTION 13.03 All Capital Improvements shall be carried out under the supervision of the Architect or an architect selected by Subtenant and approved by Sublandlord, which approval shall not be unreasonably withheld or delayed. Upon completion of any Capital Improvement, Subtenant shall furnish to Sublandlord a complete set of "as-built" plans for such Capital Improvements together with, once same is issued, a permanent Certificate of Occupancy therefor issued by the New York City Department of Building, if and to the extent a modification thereof was required.

SECTION 13.04 Title to all additions, alterations, improvements and replacements made to the Premises, including, without limitation, the Capital Improvements, shall forthwith vest in Sublandlord, without any obligation by Sublandlord to pay any compensation therefor to Subtenant.

ARTICLE XIV

REQUIREMENTS OF PUBLIC AUTHORITIES AND OF INSURANCE UNDERWRITERS
AND POLICIES; COMPLIANCE WITH MASTER LEASE AND GROUND LEASE

SECTION 14.01 Except as may otherwise be specifically provided in Article 26, Subtenant promptly shall comply with any and all applicable present and future laws, rules, orders, ordinances, regulations, statutes, requirements, permits, consents, certificates, approvals, codes and executive orders, including, without limitation, Environmental Statutes and any conditions noted on any Certificate of Occupancy or temporary Certificate of Occupancy (collectively, "Requirements") without regard to the nature or cost of the work required to be done, extraordinary, as well as ordinary, of all Governmental Authorities now existing or hereafter created, and of any and all of their departments and bureaus, of any applicable Fire Rating Bureau or other body exercising similar functions, affecting the Premises, or any street, avenue or sidewalk comprising a part or in front thereof or any vault in or under the same, or requiring the removal of any encroachment, or affecting the construction, maintenance, use, operation, management or occupancy of the Premises, whether or not the same involve or require any structural changes or additions in or to the Premises, without regard to whether or not such changes or additions are required on account of any particular use to which the Premises, or any part thereof, may be put, and without regard to the fact that Subtenant is not the fee owner of the Premises. Subtenant also shall comply with any and all provisions and requirements of any casualty, liability or other insurance policy required to be carried by Subtenant under the provisions of this Sublease. Subtenant shall have no obligation to comply with Requirements with respect to, or pay for or complete, Landlord's Civic Facilities.

SECTION 14.02 Subtenant shall have the right to contest the validity of any Requirements or the application thereof. During such contest, compliance with any such contested Requirements may be deferred by Subtenant upon the condition that, if Subtenant is not an Institutional Lender, and if the cost of compliance shall exceed \$500,000 (subject to increase as provided in Section 7.02(a)), then, prior to instituting such proceeding, Subtenant shall furnish to Sublandlord a bond, cash or other security satisfactory to Sublandlord, in an amount equal to the amount by which the cost of such compliance exceeds \$500,000 (subject to increase as provided in Section 7.02(a)), securing compliance with the contested Requirements and payment of all interest, penalties, fines, fees and expenses in connection therewith. Any such proceeding instituted by Subtenant shall be commenced as soon as is reasonably possible after the issuance of any such contested matters, or after actual notice to Subtenant of the applicability of such matters to the Premises, and shall be prosecuted to final adjudication with reasonable dispatch. Notwithstanding the foregoing, Subtenant promptly shall comply with any such Requirements and compliance shall not be deferred if such noncompliance shall result in the imminent loss or forfeiture of the Premises, or any part thereof, or if Sublandlord shall be in danger of being subject to civil or criminal liability or penalty by reason of non-compliance therewith.

SECTION 14.03 Subtenant shall not cause or create or permit to exist or occur any condition or event relating to the Premises which would, with or without notice or passage of time, result in an event of default under the Master Lease (as the same exists on the date hereof) or the Ground Lease (as the same exists on the date hereof) or this Sublease. Subtenant shall perform all of Ground Lessor's obligations as tenant under the Master Lease and all of Sublandlord's obligations as tenant under the Ground Lease (as the same exist on the date hereof) inasmuch as they relate to the maintenance and operation of the Premises unless, in accordance with the terms of this Sublease, Sublandlord is specifically obligated to perform any such obligation.

Notwithstanding the foregoing, from and after the Assignment Date, Subtenant's obligations shall be solely as set forth herein and Subtenant shall not be required to comply with, perform or observe any obligations of Ground Lessor as tenant under the Master Lease or of Sublandlord as tenant under the Ground Lease.

ARTICLE XV

EQUIPMENT

SECTION 15.01 All Equipment shall be and shall remain the property of Ground Lessor, prior to the Assignment Date, and Sublandlord, following the Assignment Date. Subtenant shall not have the right, power or authority to, and shall not, remove any Equipment from the Premises without the consent of Sublandlord, which consent shall not be unreasonably withheld or delayed; provided, however, such consent shall not be required in connection with repairs, cleaning or other servicing, or if (subject to Unavoidable Delays) the same is promptly replaced by Equipment which is at least equal in utility and value to the Equipment being removed. Notwithstanding the foregoing, Subtenant shall not be required to replace any Equipment which performed a function which has become obsolete or otherwise is no longer necessary or desirable in connection with the use or operation of the Premises, unless such failure to replace would reduce the value of the Premises or would result in a reduced level of maintenance of the Premises, in which case Subtenant shall be required to install such Equipment as may be necessary to prevent such reduction in the value of the Premises or in the level of maintenance.

SECTION 15.02 Subtenant shall keep all Equipment, to the extent same constitutes a part of the Base Building Systems serving the Premises, in good order and repair and shall replace the same when necessary with items at least equal in utility and value to the Equipment being replaced.

ARTICLE XVI

DISCHARGE OF LIENS; BONDS

SECTION 16.01 Subject to the provisions of Section 16.02 hereof, except as otherwise expressly provided herein, Subtenant shall not create or permit to be created any lien, encumbrance or charge upon the Premises or any part thereof, or the Project Area or any part thereof, the income therefrom or any assets of, or funds appropriated to, Sublandlord, and Subtenant shall not suffer any other matter or thing whereby the estate, right and interest of Sublandlord in the Premises, or any part thereof, might be impaired. Subtenant may finance (and enter into equipment finance leases of) any Equipment.

SECTION 16.02 If any mechanic's, laborer's or materialman's lien (other than a lien arising out of any work performed by Sublandlord, Master Lessor or Ground Lessor or Hotel Subtenant at any time shall be filed in violation of the obligations of Subtenant pursuant to Section 16.01 against the Premises or any part thereof, or the Project Area or any part thereof, or, if any public improvement lien created or permitted to be created by Subtenant shall be filed against any assets of, or funds appropriated to, Sublandlord, then Subtenant, within forty-five (45) days after

receipt of notice of the filing thereof shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Subtenant shall fail to cause such lien to be discharged of record within the period aforesaid, and if such lien shall continue for an additional ten (10) days after notice by Sublandlord to Subtenant, then, in addition to any other right or remedy, Sublandlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event, Sublandlord shall be entitled, if Sublandlord so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances. Any amount so paid by Sublandlord, including all reasonable costs and expenses incurred by Sublandlord in connection therewith including, without limitation, reasonable attorneys' fees and disbursements, together with interest thereon at the Involuntary Rate, from the respective dates of Sublandlord's making of the payment or incurring of the costs and expenses, shall constitute Rental and shall be paid by Subtenant to Sublandlord within ten (10) days after demand. Notwithstanding the foregoing provisions of this Section 16.02, Subtenant shall not be required to discharge any such lien if Subtenant is in good faith contesting the same and has furnished a cash deposit or a security bond or other such security satisfactory to Sublandlord in an amount sufficient to pay such lien with interest and penalties.

SECTION 16.03 Nothing in this Sublease contained shall be deemed or construed in any way as constituting the consent or request of Sublandlord, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Premises or any part thereof, nor as giving Subtenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of materials that would give rise to the filing of any lien against Sublandlord's interest in the Premises or any part thereof, the Project Area or any part thereof, or any assets of, or funds appropriated to, Sublandlord. Notice is hereby given, and Subtenant shall cause all Construction Documents to provide, that Sublandlord shall not be liable for any work performed or to be performed at the Premises for Subtenant or any Sub-Subtenant or for any materials furnished or to be furnished at the Premises for any of the foregoing, and that no mechanic's or other lien for such work or materials shall attach to or affect the estate or interest of Sublandlord or Master Lessor in and to the Premises or any part thereof, the Project Area or any part thereof, or any assets of, or funds appropriated to, Sublandlord or Master Lessor.

SECTION 16.04 Subtenant shall have no power to do any act or make any contract which may create or be the foundation for any lien, mortgage or other encumbrance upon the estate or assets of, or funds appropriated to, Sublandlord or of any interest of Sublandlord in the Premises.

ARTICLE XVII

REPRESENTATIONS; POSSESSION

SECTION 17.01 Subtenant acknowledges that Subtenant is fully familiar with the Land, the Project Area, the physical condition thereof (including, without limitation, the fact that the Land includes substantial portions of landfill which may present special difficulties in the design, construction and maintenance of the Building and Tenant's Civic Facilities), the Title Matters, the Master Lease, the Ground Lease, the Hotel Sublease, the Declaration of Restrictions,

the Master Development Plan, the Memorandum of Understanding, the Settlement Agreement and the Design Guidelines. Except for Landlord's Civic Facilities to be constructed by Ground Lessor as provided in the Ground Lease, Subtenant accepts the Land in its existing condition and state of repair, and, except as otherwise expressly set forth in this Sublease, no representations, statements, or warranties, express or implied, have been made by or on behalf of Sublandlord in respect of the Land, the Project Area, the status of title thereof, the physical condition thereof, including, without limitation, the landfill portions thereof, the zoning or other laws, regulations, rules and orders applicable thereto, Taxes, or the use that may be made of the Land, that Subtenant has relied on no such representations, statements or warranties, and that Sublandlord shall in no event whatsoever be liable for any latent or patent defects in the Land.

SECTION 17.02 Notwithstanding anything herein contained to the contrary, Sublandlord represents that the Master Lease, the Design Guidelines, the Declaration of Restrictions, the Master Development Plan, the Memorandum of Understanding, and the Settlement Agreement have not been amended, modified or supplemented, except as specifically set forth in the definitions contained in Article 1 and are in full force and effect.

SECTION 17.03 Sublandlord shall deliver possession of the Land on the Commencement Date vacant and free of occupants and tenancies, subject only to the Title Matters.

ARTICLE XVIII

SUBLANDLORD NOT LIABLE FOR INJURY OR DAMAGE, ETC.

SECTION 18.01 Sublandlord shall not in any event whatsoever be liable for any injury or damage to Subtenant or to any other Person happening on, in or about the Premises and its appurtenances, nor for any injury or damage to the Premises or to any property belonging to Subtenant or to any other Person which may be caused by any fire or breakage, or by the use, misuse or abuse of the Building (including, but not limited to, any of the Common Areas, Equipment, elevators, hatches, openings, installations, stairways, hallways, or other common facilities), or the streets or sidewalk area within the Premises or which may arise from any other cause whatsoever except to the extent any of the foregoing shall have resulted from the negligence or wrongful act of Sublandlord, its officers, contractors, agents, employees or licensees; nor shall Sublandlord in any event be liable for the acts or failure to act of any other tenant or subtenant of any premises within the Project Area other than the Premises, or of any agent, representative, employee, contractor or servant of such other tenant or subtenant.

SECTION 18.02 Sublandlord shall not be liable to Subtenant or to any other Person for any failure of water supply, gas or electric current, nor for any injury or damage to any property of Subtenant or of any other Person or to the Premises caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain or snow which may leak or flow from the street, sewer, gas mains or subsurface area or from any part of the Premises, or leakage of gasoline or oil from pipes, appliances, sewer or plumbing works therein, or from any other place, nor for interference with light or other incorporeal hereditaments by anybody, or caused by any public or quasi-public work, except to the extent any of the foregoing shall have resulted from the negligence or wrongful act of Sublandlord, its officers, agents, contractors, employees or licensees.

SECTION 18.03 In addition to the provisions of Sections 18.01 and Section 18.02, in no event shall Sublandlord be liable to Subtenant or to any other Person for any injury or damage to any property of Subtenant or of any other Person or to the Premises, arising out of any sinking, shifting, movement, subsidence, failure in load-bearing capacity of, or other matter or difficulty related to, the soil, or other surface or subsurface materials, on the Premises or in the Project Area, it being agreed that Subtenant shall assume and bear all risk of loss with respect thereto.

SECTION 18.04 In no event shall Subtenant be liable to Sublandlord or to any other Person for any injury or damage to Sublandlord or to such other Person happening on, in or about the Premises and its appurtenances which may be caused by Landlord's Civic Facilities or the existence on the date hereof of any hazardous, toxic or dangerous waste, substance or material in the soil or subsurface, except to the extent that the same shall have been caused in whole or in part by the negligence or wrongful act of Subtenant or any employee, agent, servant or contractor of Subtenant or any Sub-Subtenant.

ARTICLE XIX

INDEMNIFICATION OF SUBLANDLORD AND OTHERS

SECTION 19.01 Subtenant shall not do, or knowingly permit any Sub-Subtenant or any employee, agent, servant or contractor of Subtenant or of any Sub-Subtenant to do, any act or thing upon the Premises or elsewhere in the Project Area which may reasonably be likely to subject Sublandlord to any liability or responsibility for injury or damage to persons or property, or to any liability by reason of any violation of law or any other Requirement, and shall use its best efforts to exercise such control over the Premises so as to fully protect Sublandlord against any such liability. Subtenant, to the fullest extent permitted by law, shall indemnify and save Ground Lessor, Master Lessor and, after the Assignment Date, Sublandlord, the State of New York, and their agents, directors, officers and employees (collectively, the "Indemnitees"), harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, engineers', architects' and attorneys' fees and disbursements, which may be imposed upon or incurred by or asserted against any of the Indemnitees by reason of any of the following occurring during the Term, except to the extent that the same shall have been caused in whole or in part by the negligence or wrongful act of any of the Indemnitees:

(a) any work or thing done in or on the Premises or any part thereof (except for Landlord's Civic Facilities);

(b) any use, non-use, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any part thereof or any street, alley, sidewalk, curb, vault, passageway or space comprising a part of the Premises or adjacent thereto, provided such indemnity with regard to streets, alleys, sidewalks, curbs, vaults, passageways and other space is limited to an alteration, repair, condition, or maintenance of any street, alley, sidewalk, curb, vault, passageway or other space done or performed by Subtenant or any agent, contractor, servant or employee of Subtenant or which Subtenant is obligated to do or perform; provided, however, such indemnity shall not relate to (i) any pre-existing environmental condition, or (ii) any hazardous materials or environmental contaminants which migrates to the Land from

other sites within the Project Area (and which did not originate at the Premises following the date hereof);

(c) any negligent or tortious act or failure to act within the Project Area on the part of Subtenant or any agent, contractor, servant or employee of Subtenant;

(d) any accident, injury (including death at any time resulting therefrom) or damage to any Person or property occurring in or on the Premises or any part thereof or in, or about any sidewalk or vault, unless such sidewalk or vault is solely within the control of Sublandlord or a utility company or such accident, injury or damage arises from (i) some defect in Landlord's Civic Facilities or (ii) an environmental or other condition on the Land existing as of the date hereof, or (iii) any hazardous materials or environmental contaminant which migrate to the Land from other sites within the Project Area (and which did not originate at the Premises following the date hereof);

(e) any failure on the part of Subtenant to perform or comply with any of the covenants, agreements, terms or conditions contained in this Sublease on its part to be performed or complied with;

(f) any lien or claim which may have arisen out of any act of Subtenant or any agent, contractor, servant or employee of Subtenant against or on the Premises or any other portion of the Project Area, or any lien or claim created or permitted to be created by Subtenant in respect of the Premises against any assets of, or funds appropriated to any of the Indemnitees under the laws of the State of New York or of any other Governmental Authority or any liability which may be asserted against any of the Indemnitees with respect thereto, except to the extent such lien or claim arises from any (i) pre-existing environmental condition or (ii) the migration to the Land of hazardous materials or environmental contaminants from other sites within the Project Area (which migration did not originate at the Premises following the date of the Ground Lease);

(g) any failure on the part of Subtenant to keep, observe and perform any of the terms, covenants, agreements, provisions, conditions or limitations contained in the Sub-subleases, if any, on Subtenant's part to be kept, observed or performed;

(h) any contest by Subtenant permitted pursuant to the provisions of this Sublease, including, without limitation, Article 4, Article 14 and Article 28 hereof, or

(i) any action taken by any Person pursuant to any Environmental Statute or under common law, pertaining to hazardous or toxic waste or other substances, or in any manner arising out of or related to the presence, use, generation, storage, disposal or transport of any hazardous materials or environmental contaminants found in, on or under, affixed to or emanating from the Premises, except to the extent that such hazardous materials or environmental contaminants were (i) present at the Land on the date hereof or (ii) migrated to the Land from other sites within the Project Area and did not originate at the Premises following the date hereof.

SECTION 19.02 The obligations of Subtenant under this Article 19 shall not be affected in any way by the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Building.

SECTION 19.03 If any claim, action or proceeding is made or brought against any of the Indemnitees by reason of any event for which Subtenant has agreed to indemnify the Indemnitees in Section 19.01, then, Subtenant shall resist or defend such claim, action or proceeding (in such Indemnitee's name, if necessary) by the attorneys for Subtenant's insurance carrier (if such claim, action or proceeding is covered by insurance maintained by Subtenant) or (in all other instances) by such attorneys as Subtenant shall select and Sublandlord shall approve, which approval shall not be unreasonably withheld or delayed. In such event, Subtenant shall control all decisions in respect of the litigation and settlement of such claims. Notwithstanding the foregoing, Sublandlord may engage their own respective attorneys to assist in their defense. Provided such claim, action or proceeding is not covered by insurance maintained by Subtenant and the attorneys engaged by Sublandlord are experienced in matters of the type in question, Subtenant shall pay the reasonable fees and disbursements of such attorneys. The indemnification obligations imposed upon Subtenant under Section 19.01 shall not apply to any settlement agreed to by Sublandlord without Subtenant's consent, or if Sublandlord retains its own attorneys and such retention will materially impair or materially diminish Subtenant's insurance coverage and Sublandlord has been so advised in writing by Subtenant's insurer.

SECTION 19.04 The provisions of this Article 19 shall survive the Expiration Date with respect to actions or the failure to take any actions or any other matter arising prior to the Expiration Date.

ARTICLE XX

RIGHT OF INSPECTION, ETC.

SECTION 20.01 Subtenant shall permit Sublandlord and its agents or representatives to enter the Premises at all reasonable times and upon reasonable notice (except in cases of emergency) for the purpose of (a) inspecting the same, (b) determining whether or not Subtenant is in compliance with its obligations hereunder, (c) constructing, maintaining and inspecting any Civic Facilities and (d) making any necessary repairs to the Premises and performing any work therein that may be necessary by reason of Subtenant's failure to make any such repairs or perform any such work, provided that, except in any emergency, Sublandlord shall have given Subtenant notice specifying such repairs or work and Subtenant shall have failed to make such repairs or to do such work within forty-five (45) days after the receipt of such notice (subject to Unavoidable Delays), or if such repairs or such work cannot reasonably be completed during such forty-five (45) day period, to have commenced and be diligently pursuing the same (subject to Unavoidable Delays).

SECTION 20.02 Nothing in this Article 20 or elsewhere in this Sublease shall imply any duty upon the part of Sublandlord to do any work required to be performed by Subtenant hereunder and performance of any such work by Sublandlord shall not constitute a waiver of Subtenant's default in failing to perform the same. Sublandlord, during the progress of any such work, may keep and store at the Premises all necessary materials, tools, supplies and equipment. Sublandlord shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damage of Subtenant, any Sub-Subtenant or other occupant of the Premises by reason of making such repairs or the performance of any such work, or on account of bringing materials, tools, supplies and equipment into the Premises during the course thereof, provided Sublandlord shall use reasonable efforts to minimize damage resulting from Sublandlord's exercise of its rights under this

Article 20, and the obligations of Subtenant under this Sublease shall not be affected thereby. To the extent that Sublandlord undertakes such work or repairs, such work or repairs shall be commenced and completed in a good and workmanlike manner, and with reasonable diligence, subject to Unavoidable Delays, and in such a manner as not to unreasonably interfere with the conduct of business in or use of such space.

ARTICLE XXI

SUBLANDLORD'S RIGHT TO PERFORM SUBTENANT'S COVENANTS

SECTION 21.01 If Subtenant at any time shall be in Default, after notice thereof and after applicable grace periods, if any, provided under this Sublease for Subtenant or a Mortgagee, respectively, to cure or commence to cure same, Sublandlord, without waiving or releasing Subtenant from any obligation of Subtenant contained in this Sublease, may (but shall be under no obligation to) perform such obligation on Subtenant's behalf.

SECTION 21.02 All reasonable sums paid by Sublandlord and all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Sublandlord in connection with its performance of any obligation pursuant to Section 21.01, together with interest thereon at the Involuntary Rate from the respective dates of Sublandlord's making of each such payment or incurring of each such sum, cost, expense, charge, payment or deposit until the date of actual repayment to Sublandlord, shall be paid by Subtenant to Sublandlord within ten (10) days after Sublandlord shall have submitted to Subtenant a statement, in reasonable detail, substantiating the amount demanded by Sublandlord. Any payment or performance by Sublandlord pursuant to Section 21.01 shall not be nor be deemed to be a waiver or release of breach or Default of Subtenant with respect thereto or of the right of Sublandlord to terminate this Sublease, institute summary proceedings or take such other action as may be permissible hereunder or otherwise provided at law or in equity if an Event of Default by Subtenant shall have occurred.

ARTICLE XXII

NO ABATEMENT OF RENTAL

SECTION 22.01 Except as may be otherwise expressly provided herein, there shall be no abatement, off-set, diminution or reduction of Rental payable by Subtenant hereunder or of the other obligations of Subtenant hereunder under any circumstances.

ARTICLE XXIII

PERMITTED USE; NO UNLAWFUL OCCUPANCY

SECTION 23.01 Commencing on the date of the Completion of the Building, Subtenant shall use all commercially reasonable efforts to cause the Premises to be operated continuously and without interruption throughout the entire Term as retail stores and storefronts, for the sale to the public (by subtenants or concessionaires of Subtenant) of goods, foods, consumables and services, and movie theatres in accordance with this Sublease, the Requirements, the Certificate

or Certificates of Occupancy for the Premises, the Declaration of Restrictions, the Master Development Plan, the Declaration or the REA, as the case may be, and the Design Guidelines and for no other use or purposes. Notwithstanding the foregoing or any other provisions of this Sublease to the contrary, portions of (or stores within) the Retail Complex may be closed during fit-outs (by Subtenant or by subtenants of Subtenant) of such areas (e.g., prior to opening or following a re-leasing of a store within the Retail Complex or following the bankruptcy of a sub-subtenant of Subtenant or a termination of any lease to any space within the Retail Complex), or in the ordinary course of any renovations or alterations performed by (or on behalf of) any sub-subtenant of Subtenant in the Retail Complex, provided that (a) Subtenant procures and delivers to Sublandlord a certificate from the Architect or other qualified, independent professional whereby the Architect or such professional sets forth its professional opinion as to the amount of time it would reasonably take to complete the fit-out or alterations, (b) Subtenant (or the sub-subtenant of Subtenant) commences such alterations or refurbishment reasonably promptly following the delivery of such Certificate to Sublandlord (but not before such delivery), (c) Subtenant (or the sub-subtenant of Subtenant) diligently prosecutes such alterations or refurbishment to completion, and (d) in the case of the Theater, in no event shall each such cessation exceed nine (9) months (as such time period may be extended for reasons of force majeure or by reason of Unavoidable Delays).

SECTION 23.02 Subtenant shall not use or occupy, nor knowingly permit or suffer the Premises or any part thereof to be, used or occupied for any unlawful, illegal or extra hazardous business, use or purpose, or in such manner as to constitute a nuisance of any kind (public or private) or that Sublandlord, in its reasonable judgment, deems offensive by reason of odors, fumes, dust, smoke, noise or other pollution, normal popcorn and kitchen and food preparation odors being deemed not offensive, or for any purpose or in any way in violation of the Certificates of Occupancy or any temporary Certificate of Occupancy or of any governmental laws, building codes, ordinances, requirements, orders, directions, rules or regulations, including, without limitation, the Design Guidelines or which may make void or voidable any insurance then in force on the Premises or, without Sublandlord's consent, for any use which requires a variance, waiver or special permit under the Zoning Resolution of New York City as then in effect, except with respect to use of the atrium contemplated at the Building, which requires a waiver from the New York City Board of Standards and Appeals ("BSA") of certain provisions of the Building Code of the City of New York pertaining to hotel corridors along an open atrium. Subtenant shall take, immediately upon the discovery of any such unpermitted, unlawful, illegal or extra hazardous use, all necessary actions, legal and equitable, to compel the discontinuance of such use. If for any reason Subtenant shall fail to take such actions, and such failure shall continue for thirty (30) days after Subtenant's receipt of notice from Sublandlord specifying such failure, Sublandlord is hereby irrevocably authorized (but not obligated) to take all such actions necessary to remedy the situation. All reasonable sums paid by Sublandlord and all reasonable costs and expenses incurred by Sublandlord acting pursuant to the immediately preceding sentence (including, but not limited to, reasonable attorneys' fees and disbursements), together with interest thereon at the Involuntary Rate from the respective dates of Sublandlord's making of each such payment or incurring of each such cost, expense or charge until the date of receipt of repayment by Sublandlord, shall be paid by Subtenant to Sublandlord within ten (10) days after demand and shall constitute Rental under this Sublease.

SECTION 23.03 Subtenant shall not knowingly suffer or permit the Premises or any portion of the Premises to be used by the public in such manner as might reasonably tend to impair

title to the Premises, or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises, or any portion thereof.

SECTION 23.04 Subtenant shall take all such actions as Sublandlord is required to take in connection with the use and occupancy of the Premises under the terms of the Master Lease (prior to the Assignment Date), Ground Lease (prior to the Assignment Date) and this Sublease, as the same exist on the date hereof, and Subtenant shall not (to the extent reasonably within Subtenant's control) permit any action or condition in respect of the Premises which constitutes or would, with notice or lapse of time or both, constitute an event of default under the Master Lease or Ground Lease (as the same exist on the date hereof). Sublandlord shall perform all of Sublandlord's obligations under the Ground Lease other than those which, prior to the Assignment Date, are the obligation of Subtenant under this Sublease, and Sublandlord shall not take or fail to take any action which constitutes or would, with notice or lapse of time or both, constitute an event of default under the Master Lease or the Ground Lease.

SECTION 23.05 Subtenant shall, following Completion of the Premises:

- (a) use commercially reasonable efforts to cause the Theater to be operated by the Theater Operator as first-class multi-screen theater showing principally first-run films; and
- (b) use commercially reasonable efforts to cause the Theater Operator to develop a program to permit occasional use of the Theater for community meetings and, for a reasonable fee, for business meetings during non-peak periods.

ARTICLE XXIV

EVENTS OF DEFAULT; CONDITIONAL LIMITATIONS, REMEDIES, ETC.

SECTION 24.01 Each of the following events shall be an "Event of Default" hereunder:

- (a) if Subtenant shall fail to pay any item of Rental, or any part thereof, when the same shall become due and payable and such failure shall continue for ten (10) days after written notice from Sublandlord to Subtenant;
- (b) if Completion of the Premises shall not have occurred on or before the date which is forty-two (42) months from the Construction Commencement Date (subject to Unavoidable Delays) and such failure shall continue for thirty (30) days after written notice from Sublandlord to Subtenant; provided, however, that if the Completion of the Premises shall not have occurred by the date which is forty-two (42) months from the Construction Commencement Date and such failure results from the Theater Operator's failure to fit-out or open the Theater within such period of time, no Event of Default shall be deemed to exist as long as Subtenant, prior to or within the aforementioned thirty (30) day notice period, shall have commenced curing such failure (by enforcing its lease with the Theater Operator or by negotiating an arrangement with a substitute Theater Operator or otherwise) and shall, subject to Unavoidable Delays, diligently and continuously prosecute the same to completion (unless, notwithstanding Subtenant's efforts at cure,

the Theater Opening Date has not occurred by the date which is fifty-four (54) months from the Construction Commencement Date (subject to Unavoidable Delays), in which event an Event of Default shall be deemed to exist if the Completion of the Premises (including the Theater Opening Date) shall not have occurred on the date which is fifty-four (54) months from the Construction Commencement Date (subject to Unavoidable Delays) and such failure shall continue for thirty (30) days after notice from Sublandlord to Subtenant);

(c) if Subtenant shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements contained in this Sublease and such failure shall continue for a period of thirty (30) days after written notice thereof by Sublandlord to Subtenant specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature or because of Unavoidable Delays reasonably be performed, done or removed, as the case may be, within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as Subtenant shall have commenced curing the same within such thirty (30) day period and shall, subject to Unavoidable Delays, diligently and continuously prosecute the same to completion);

(d) to the extent permitted by law, if Subtenant shall admit, in writing, that it is unable to pay its debts as such become due;

(e) to the extent permitted by law, if Subtenant shall make an assignment for the benefit of creditors;

(f) to the extent permitted by law, if Subtenant shall file a voluntary petition under Title 11 of the United States Code or if such petition is filed against it, and an order for relief is entered, or if Subtenant shall file any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Subtenant, or of all or any substantial part of its properties or of the Premises, or any interest therein of Subtenant, or if Subtenant shall take any corporate action in furtherance of any action described in Sections 24.01(d), (e) or (f) hereof;

(g) to the extent permitted by law, if within ninety (90) days after the commencement of any proceeding against Subtenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other statute or law, such proceeding shall not have been dismissed; or if, within ninety (90) days after the appointment, without the consent or acquiescence of Subtenant, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Subtenant or of all or any substantial part of its properties or of the Premises or any interest therein of Subtenant, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within (30) days after the expiration of any such stay, such appointment shall not have been vacated;

(h) if this Sublease or the estate of Subtenant hereunder shall be assigned, sub-leased, transferred, mortgaged or encumbered, or there shall be a Transfer, without

Sublandlord's approval to the extent required hereunder or without compliance with the provisions of this Sublease applicable thereto and such transaction shall not be made to comply or voided ab initio within thirty (30) days after Subtenant receives notice thereof from Sublandlord to Subtenant;

(i) if a levy under execution or attachment (other than in connection with any foreclosure by a Mortgagee) shall be made against the Premises, and such execution or attachment shall not be vacated or removed by court order, or otherwise, or bonded within a period of thirty (30) days from the date on which Subtenant shall have received notice of same;

(j) if Subtenant shall at any time fail to maintain its existence in good standing, or to pay any franchise tax when and as the same shall become due and payable and such failure shall continue for thirty (30) days after notice thereof from Sublandlord or any governmental agency to Subtenant (unless Subtenant shall be contesting same and such contest shall not result in a forfeiture of Subtenant's estate herein or in any civil or criminal liability being imposed on Sublandlord, Subtenant or any Mortgagee);

(k) if Subtenant shall abandon the Premises;

(l) if Subtenant shall have failed to timely pay common area charges or any other amounts payable by Subtenant under either the Declaration or the REA (i) with respect to regular monthly payments, for more than three (3) months in any twelve (12) month period, or (ii) with respect to special or extraordinary payments, if the amount of such arrearage exceeds \$15,000 (as such amount shall be increased in accordance with the mechanism set forth in Section 7.02(a) hereof), and in either of the foregoing circumstances described in clause (i) or clause (ii), Subtenant fails to pay such arrearages within ten (10) days' written notice from Sublandlord to Subtenant; or

(m) if Forest City Enterprises, Inc. shall have breached a material representation (or failed to perform its obligations) contained in the Completion Guaranty.

SECTION 24.02 If an Event of Default shall occur, Sublandlord may elect to declare due and payable a sum equal to the amount by which the Rental reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of eight percent (8%) per annum, such sum shall be due and payable ten (10) days after notice by Sublandlord to Subtenant of such election. However, the aforesaid remedy shall not be applicable to a Mortgagee which elects to cure the Default of Subtenant pursuant to Section 10.10 or receives a new sublease pursuant to Section 10.11. Sublandlord may also elect to proceed by appropriate judicial proceedings, either at law or in equity, to enforce performance or observance by Subtenant of the applicable provisions of this Sublease and/or to recover damages for breach thereof.

SECTION 24.03 If any Event of Default (i) described in Sections 24.01(d), (e), (f) or (g) hereof shall occur, or (ii) described in Sections 24.01(b), (c), (h), (i), (j), (k), (l) or (m) shall occur and Sublandlord, at its option, and at any time after the Event of Default(s) described in Sections 24.01(b), (c), (h), (i), (j), (k), (l) or (m) shall have occurred, gives notice to Subtenant stating that this Sublease and the Term shall expire and terminate on the date specified in such notice, which date shall be not less than ten (10) days after the giving of such notice, and if, on the

date specified in such notice, Subtenant (or, in the case of the Default itemized in Section 24.01(m), Forest City Rental Properties Corporation) shall have failed to cure the Default which was the basis for the Event of Default, then, in either of the events described in the preceding subclauses (i) or (ii) hereof, this Sublease and the Term and, except as provided in Section 24.04(a), all rights of Subtenant under this Sublease shall expire and terminate as of the date on which the Event of Default described in clause (i) above occurred or the date specified in the notice given pursuant to clause (ii) above, as the case may be, as if such date were the date herein definitely fixed for the expiration of the Term and Subtenant immediately shall quit and surrender the Premises. Anything contained herein to the contrary notwithstanding, if such termination shall be stayed by order of any court having jurisdiction over any proceeding described in Section 24.01(g) or Section 24.01(h) hereof, or by federal or state statute, then, following the expiration of any such stay, or if the trustee appointed in any such proceeding, Subtenant or Subtenant as debtor-in-possession shall fail to assume Subtenant's obligations under this Sublease within the period prescribed therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, or if said trustee, Subtenant or Subtenant as debtor-in-possession shall fail to provide adequate protection of Sublandlord's right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Subtenant's obligations under this Sublease as provided in Section 24.15 hereof, Sublandlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Sublease on ten (10) days' notice to Subtenant, Subtenant as debtor-in-possession or said trustee and upon the expiration of said ten (10) day period this Sublease shall cease and expire as aforesaid and Subtenant, Subtenant as debtor-in-possession and/or trustee shall immediately quit and surrender the Premises as aforesaid.

(a) If an Event of Default described in Section 24.01(a) shall occur, or this Sublease shall be terminated as provided in Section 24.03(a), Sublandlord, without notice, may re-enter and repossess the Premises using such force for that purpose as may be necessary without being liable to indictment, prosecution or damages therefor and may dispossess Subtenant by summary proceedings or otherwise.

SECTION 24.04 If this Sublease shall be terminated as provided in Section 24.03(a) or Subtenant shall be dispossessed by summary proceedings or otherwise as provided in Section 24.03(b) hereof:

(a) Subtenant shall pay to Sublandlord all Rental payable by Subtenant under this Sublease to the date upon which this Sublease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Sublandlord, as the case may be;

(b) Sublandlord may complete all construction required to be performed by Subtenant hereunder and may repair and alter the Premises in such manner as Sublandlord may deem necessary or advisable (and may apply to the foregoing all funds, if any, then held by Depositary pursuant to Article 7, Article 8, or Article 9) without relieving Subtenant of any liability under this Sublease or otherwise affecting any such liability, and/or let or relet the Premises or any parts thereof for the whole or any part of the remainder of the Term or for a longer period, in Sublandlord's name or as agent of Subtenant, and out of any rent and other sums collected or received as a result of such reletting Sublandlord shall: (A) first, pay to itself the reasonable cost and expense of terminating this Sublease, re-entering, retaking, repossessing, completing

construction and repairing or altering the Premises, or any part thereof, and the cost and expense of removing all persons and property therefrom, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements, (B) second, pay to itself the reasonable cost and expense sustained in securing any new tenants and other occupants, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements and other expenses of preparing the Premises for reletting, and, if Sublandlord shall maintain and operate the Premises, the reasonable cost and expense of operating and maintaining the Premises and (C) third, pay to itself any balance remaining on account of the liability of Subtenant to Sublandlord. Sublandlord in no way shall be responsible or liable for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due on any such reletting, and no such failure to relet or to collect rent shall operate to relieve Subtenant of any liability under this Sublease or to otherwise affect any such liability;

(c) if Sublandlord shall not have declared all Rental due and payable pursuant to Section 24.02 hereof, Subtenant shall be liable for and shall pay to Sublandlord, as damages, any deficiency (referred to as "Deficiency") between the Rental reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 24.04(b) for any part of such period (first deducting from the rents collected under any such reletting all of the payments to Sublandlord described in Section 24.04(b) hereof); any such Deficiency shall be paid in installments by Subtenant on the days specified in this Sublease for payment of installments of Rental, and Sublandlord shall be entitled to recover from Subtenant each Deficiency installment as the same shall arise, and no suit to collect the amount of the Deficiency for any installment period shall prejudice Sublandlord's right to collect the Deficiency for any subsequent installment period by a similar proceeding; and

(d) if Sublandlord shall not have declared all Rental due and payable pursuant to Section 24.02 hereof, and whether or not Sublandlord shall have collected any Deficiency installments as aforesaid, Sublandlord shall be entitled to recover from Subtenant, and Subtenant shall pay to Sublandlord, on demand, in lieu of any further Deficiencies, as and for liquidated and agreed final damages (it being agreed that it would be impracticable or extremely difficult to fix the actual damage), a sum equal to the amount by which the Rental reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of eight percent (8%) per annum less the aggregate amount of Deficiencies theretofore collected by Sublandlord pursuant to the provisions of Section 24.04(c) for the same period; it being agreed that before presentation of proof of such liquidated damages to any court, commission or tribunal, if the Premises, or any part thereof, shall have been relet by Sublandlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

SECTION 24.05 No termination of this Sublease pursuant to Section 24.03(a) or taking possession of or reletting the Premises, or any part thereof, pursuant to Sections 24.03(b) and 24.04(b), shall relieve Subtenant of its liabilities and obligations hereunder, all of which shall survive such expiration, termination, repossession or reletting.

SECTION 24.06 To the extent not prohibited by law, and except as provided in this Sublease, Subtenant hereby waives and releases all rights now or hereafter conferred by statute or otherwise which would have the effect of limiting or modifying any of the provisions of this Article 24. Subtenant shall execute, acknowledge and deliver any instruments which Sublandlord may request, whether before or after the occurrence of an Event of Default, evidencing such waiver or release.

SECTION 24.07 Suit or suits for the recovery of damages, or for a sum equal to any installment or installments of Rental payable hereunder or any Deficiencies or other sums payable by Subtenant to Sublandlord pursuant to this Article 24, may be brought by Sublandlord from time to time at Sublandlord's election, and nothing herein contained shall be deemed to require Sublandlord to await the date whereon this Sublease or the Term would have expired had there been no Event of Default by Subtenant and termination.

SECTION 24.08 Nothing contained in this Article 24 shall limit or prejudice the right of Sublandlord to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding an amount equal to the maximum allowed by statute or rule of law governing such proceeding and in effect at the time when such damages are to be proved, whether or not such amount shall be greater than, equal to or less than the amount of the damages referred to in any of the preceding Sections of this Article 24.

SECTION 24.09 No receipt of moneys by Sublandlord from Subtenant after the termination of this Sublease, or after the giving of any notice of the termination of this Sublease* (unless such receipt cures the Event of Default which was the basis for the notice), shall reinstate, continue or extend the Term or affect any notice theretofore given to Subtenant, or operate as a waiver of the right of Sublandlord to enforce the payment of Rental payable by Subtenant hereunder or thereafter falling due, or operate as a waiver of the right of Sublandlord to recover possession of the Premises by proper remedy, except as herein otherwise expressly provided, it being agreed that after the service of notice to terminate this Sublease or the commencement of any suit or summary proceedings, or after a final order or judgment for the possession of the Premises, Sublandlord may demand, receive and collect any moneys due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit or judgment, all such moneys collected being deemed payments on account of the use and operation of the Premises or, at the election of Sublandlord, on account of Subtenant's liability hereunder.

SECTION 24.10 Except as otherwise expressly provided herein or as prohibited by applicable law, Subtenant hereby expressly waives the service of any notice of intention to re-enter provided for in any statute, or of the institution of legal proceedings to that end, and Subtenant, for and on behalf of itself and all persons claiming through or under Subtenant, also waives any and all right of redemption provided by any law or statute now in force or hereafter enacted or otherwise, or re-entry or repossession or to restore the operation of this Sublease in case Subtenant shall be dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or repossession by Sublandlord or in case of any expiration or termination of this Sublease, and Sublandlord and Subtenant waive and shall waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this Sublease, the relationship of Sublandlord and Subtenant, Subtenant's use or occupancy of the Premises, or any claim of injury or damage. The

terms "enter", "re-enter" "entry" or "re-entry" as used in this Sublease are not restricted to their technical legal meaning.

SECTION 24.11 No failure by Sublandlord, Master Lessor, Ground Lessor or any prior landlord to insist upon the strict performance of any covenant, agreement, term or condition of this Sublease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Rental during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Sublease to be performed or complied with by Subtenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Sublandlord. No waiver of any breach shall affect or alter this Sublease, but each and every covenant, agreement, terms and condition of this Sublease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

SECTION 24.12 In the event of any breach or threatened breach by Subtenant of any of the covenants, agreements, terms or conditions contained in this Sublease, Sublandlord shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any rights and remedies allowed at law or in equity or by statute or otherwise as though re-entry, summary proceedings, and other remedies were not provided for in this Sublease. To the extent permitted by law, Subtenant waives any requirement for the posting of bonds or other security in any such action.

SECTION 24.13 Each right and remedy of Sublandlord provided for in this Sublease shall be cumulative and shall be in addition to every other right or remedy provided for in this Sublease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Sublandlord of any one or more of the rights or remedies provided for in this Sublease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Sublandlord of any or all other rights or remedies provided for in this Sublease or now or hereafter existing at law or in equity or by statute or otherwise.

SECTION 24.14 Subtenant shall pay to Sublandlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Sublandlord in any action or proceeding to which Sublandlord may be made a party by reason of any act or omission of Subtenant (excluding, however, any actions or proceeding brought by Subtenant against Sublandlord). Subtenant also shall pay to Sublandlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Sublandlord in enforcing any of the covenants and provisions of this Sublease and incurred in any action brought by Sublandlord against Subtenant on account of the provisions hereof provided that Sublandlord prevails in said action, and all such costs, expenses, and reasonable attorneys' fees and disbursements may be included in and form a part of any judgment entered in any proceeding brought by Sublandlord against Subtenant on or under this Sublease. All of the sums paid or obligations incurred by Sublandlord as aforesaid, with interest at the Involuntary Rate, shall be paid by Subtenant to Sublandlord within fifteen (15) days after demand by Sublandlord.

SECTION 24.15 If an order for relief is entered or if a stay of proceeding or other acts becomes effective in favor of Subtenant or Subtenant's interest in this Sublease in any proceeding which is commenced by or against Subtenant under the present or any future federal Bankruptcy

Code or any other present or future applicable federal, state or other statute or law, Sublandlord shall be entitled to invoke any and all rights and remedies available to it under such bankruptcy code, statute, law or this Sublease, including, without limitation, such rights and remedies as may be necessary to adequately assure the complete and continuous future performance of Subtenant's obligations under this Sublease. Adequate protection of Sublandlord's right, title and interest in and to the Premises and the use thereof, and adequate assurance of the complete and continuous future performance of Subtenant's obligations under this Sublease, shall include, without limitation, the following requirements:

- (a) that Subtenant shall comply with all of its obligations under this Sublease;
- (b) that Subtenant shall pay to Sublandlord, on the first day of each month occurring subsequent to the entry of such order, or on the effective date of such stay, a sum equal to the amount by which the Premises diminished in value during the immediately preceding monthly period, but, in no event, an amount which is less than the aggregate Rental payable for such monthly period;
- (c) that Subtenant shall continue to use the Premises in the manner required by this Sublease;
- (d) that Sublandlord shall be permitted to supervise the performance of Subtenant's obligations under this Sublease;
- (e) that Subtenant shall hire, at its sole cost and expense, such security personnel as may be necessary to insure the adequate protection and security of the Premises;
- (f) that Subtenant shall pay to Sublandlord within thirty (30) days after entry of such order or the effective date of such stay, as partial adequate protection against future diminution in value of the Premises and adequate assurance of the complete and continuous future performance of Subtenant's obligations under this Sublease, a security deposit as may be required by law or ordered by the court;
- (g) that Subtenant has and will continue to have unencumbered assets after the payment of all secured obligations and administrative expenses to assure Sublandlord that sufficient funds will be available to fulfill the obligations of Subtenant under this Sublease;
- (h) that Sublandlord be granted a security interest acceptable to Sublandlord in Subtenant's leasehold hereunder (which security interest shall be subordinate to any Mortgagee's security interests in Subtenant's leasehold hereunder); and
- (i) that if Subtenant's trustee, Subtenant or Subtenant as debtor-in-possession assumes this Sublease and proposes to assign the same (pursuant to Title 11 U.S.C. Section 365, as the same may be amended) to any Person who shall have made a bona fide offer to accept an assignment of this Sublease on terms acceptable to the trustee, Subtenant or Subtenant as debtor-in-possession, then notice of such proposed assignment, setting forth (i) the name and address of such Person, (ii) all of the terms and conditions of such offer, and (iii) the adequate assurance to be provided Sublandlord to assure such Person's future performance under this Sublease, including, without limitation, the assurances referred to in Title II U.S.C. Section 365(b)(3) (as the same may

be amended), shall be given to Sublandlord by the trustee, Subtenant or Subtenant as debtor-in-possession no later than twenty (20) days after receipt by the trustee, Subtenant or Subtenant as debtor-in-possession of such offer, but in any event no later than ten (10) days prior to the date that the trustee, Subtenant or Subtenant as debtor-in-possession shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption, and Sublandlord shall thereupon have the prior right and option, to be exercised by notice to the trustee given at any time prior to the effective date of such proposed assignment, to accept an assignment of this Sublease upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such Person, less any brokerage commissions which may be payable out of the consideration to be paid by such Person for the assignment of this Sublease.

SECTION 24.16 Nothing contained in this Article 24 shall be deemed to modify the provisions of Sections 10.10, 10.11 or 41.06 hereof.

ARTICLE XXV

NOTICES

SECTION 25.01 Whenever it is provided in this Sublease that a notice, demand, request, consent, approval or other condition shall or may be given to or served upon either of the parties by the other, or by Sublandlord upon any Mortgagee, and whenever either of the parties shall desire to give or serve upon the other any notice, demand, request, consent, approval, or other communication with respect hereto, the Premises or the Common Areas, each such notice, demand, request, consent, approval, or other communication shall be in writing and, any law or statute to the contrary notwithstanding, shall be effective for any purpose if given or served by personal delivery or by mailing the same to Sublandlord or Subtenant, as the case may be, by reputable overnight courier or by registered or certified mail, postage prepaid, return receipt requested:

If addressed to Subtenant or to Sublandlord prior to the Assignment Date:

c/o Forest City Ratner Companies
1 MetroTech Center North
Brooklyn, New York 11201
Attention: General Counsel

With an additional copy to:

Winthrop, Stimson, Putnam & Roberts
One Battery Park Plaza
New York, New York 10004-1490
Attention: Stephen A. Lefkowitz, Esq.

If to Sublandlord, after the Assignment Date (two copies):

Battery Park City Authority
One World Financial Center
New York, New York 10281

Attention: (1) President and (2) General Counsel

With an additional copy to:

Battle Fowler LLP
75 East 55th Street
New York, New York 10022
Attention: Michael A. Mishaan, Esq.

or to such other address(es) and attorneys as either party may from time to time designate by notice given to the other as aforesaid and, in the case of any notice required to be given to any Mortgagee pursuant to this Sublease, to each such Mortgagee at the address of such Mortgagee set forth in the notice mentioned in the first sentence of Section 10.10(a) hereof.

SECTION 25.02 Every notice, demand, request, consent, approval, or other communication hereunder shall be deemed to have been given or served when delivered in person, provided such delivery shall be prior to 5:00 p.m. on a Business Day; if such delivery be after 5:00 p.m., then such delivery shall be deemed on the next Business Day or if delivered by overnight courier, then on the next Business Day after delivery to such overnight courier, or if mailed, three (3) Business Days after the date that the same shall have been deposited in the United States mails, postage prepaid, in the manner aforesaid (except that a notice designating the name or address of a person to whom any notice or other communication, or copy thereof, shall be sent shall be deemed to have been given when same is received).

ARTICLE XXVI

MAINTENANCE OF THE CIVIC FACILITIES

SECTION 26.01 The term "Civic Facilities" shall include the following improvements, whether located on the Premises or in the Project Area:

(i) (A) Electrical mains and lines bringing electrical service to the Premises, (B) the construction of an electrical transformer vault and property line box, the installation of electrical transformers under the Murray Street sidewalk adjacent to the Building and network protection equipment in a room in the Building to be constructed and equipped by Sublandlord (except for the network protection equipment and wiring between the network protection equipment and the transformer), (C) all conduit, wiring and terminations between the transformers and the primary side of the network protection equipment, (D) gas mains and (E) telephone mains;

(ii) Water mains;

(iii) Sanitary and storm sewers;

(iv) Fire hydrants and Emergency Response Service ("ERS") conduits and boxes;

- (v) Street lighting (conduit, cable, poles, fixtures and connections);
- (vi) Streets immediately adjoining the Building;
- (vii) Curbs;
- (viii) Temporary concrete sidewalks immediately adjoining the Building;
- (ix) Permanent sidewalks, including cobble strip and paving, immediately adjoining the Building;
- (x) Landscaped esplanade, including appurtenances located within the pierhead line of the Project Area ("Esplanade");
- (xi) Intentionally omitted;
- (xii) Street trees immediately adjoining the Building; and
- (xiii) through-block pedestrian right-of-way along the eastern edge of the Premises which shall be a minimum of thirty (30) feet in width, except that the right-of-way may be reduced to twenty (20) feet if a driveway, vehicular way or open space unobstructed by a building or other structure is constructed by Ground Lessor or its designee immediately east of such right-of-way (the "Right-of-Way"). A legal description of the Right-of-Way, as the same may be reduced to twenty (20) feet as aforesaid, is attached hereto as Exhibit I.

(b) Except as set forth in the following sentence, Sublandlord and Subtenant acknowledge that those improvements described in subsections 26.01(a)(i)(A),(D) and (E) and 26.01(a)(ii) through (iv), (vi) through (viii) and (x) have been completed. With respect to subsection 26.01(a)(v), Sublandlord shall obtain the approval of the New York City Department of Buildings and any other agency having jurisdiction and if any modifications are required by any such agencies in order to obtain their approval, Sublandlord shall work with Ground Lessor in seeking a reconsideration if Ground Lessor so requests, and if such reconsideration is not sought or is sought but not granted, (i) prior to the Assignment Date, Sublandlord shall promptly and diligently cause Ground Lessor to perform and complete such work at Ground Lessor's sole cost and expense or after the Assignment Date, Sublandlord shall complete such work at the Sublandlord's sole cost and expense. Subject to Unavoidable Delays, (i) prior to the Assignment Date, Sublandlord shall cause Ground Lessor to perform Landlord's Construction Obligations and (ii) (x) prior to the Assignment Date, Sublandlord shall be obligated, and (y) on or following the Assignment Date, Subtenant and Hotel Subtenant and Sublandlord shall be jointly and severally obligated to perform Tenant's Construction Obligations, in each case, in a good and workmanlike manner and in compliance with normal New York City construction rules and all applicable Requirements. Sublandlord and Subtenant hereby agree to coordinate performance of their work with respect to the Civic Facilities and to perform such work as efficiently as possible and so as to minimize interference with the work of each party with respect to the Civic Facilities and, prior to the Assignment Date, Sublandlord shall enforce its rights under the Ground Lease to cause Ground Lessor to do the same. Sublandlord represents that if there are any improvements required to be constructed as environmental mitigation in connection with the Project prior to the Assignment Date, Sublandlord shall cause such work to be performed by Ground Lessor at Ground Lessor's

sole cost and expense and after the Assignment date, Sublandlord shall cause such work to be performed at Sublandlord's sole cost and expense.

(c) The term "Tenant's Civic Facilities" shall mean (i) those Civic Facilities identified in clauses (viii), (ix) and (xii) of subparagraph (a) hereof and (ii) only for maintenance purposes in the manner provided in Section 26.02, the Right-of-Way. The term "Landlord's Civic Facilities" shall mean all of the Civic Facilities which are not included within the definition of Tenant's Civic Facilities.

SECTION 26.02 Prior to the Assignment Date, Sublandlord shall cause Ground Lessor to take good care of and be responsible for compliance with Requirements in respect of Landlord's Civic Facilities, and shall cause Ground Lessor to comply with Landlord's Maintenance Obligations. On and following the Assignment Date, Sublandlord shall take good care of and be responsible for compliance with Requirements in respect of Landlord's Civic Facilities and shall comply with Landlord's Maintenance Obligations. Prior to the Assignment Date, Sublandlord shall take good care of and be responsible for compliance with Requirements and Tenant's Maintenance Obligations and on or after the Assignment Date such responsibility and compliance shall be jointly and severally the responsibility of Subtenant and Hotel Subtenant. Notwithstanding the preceding sentence to the contrary, prior to the Assignment Date Sublandlord shall cause Ground Lessor to, and after the Assignment Date Sublandlord itself shall, construct the Right-of-Way and to otherwise perform all repairs and to maintain the Right-of-Way at Ground Lessor's sole cost and expense (including by performing structural repairs, restorations and replacements) in a manner so as not to affect the soundness or structural integrity of the Building with the exception that prior to the Assignment Date Sublandlord, and on or after the Assignment Date Subtenant and Hotel Subtenant shall, at the sole cost and expense of Sublandlord or Subtenant and Hotel Subtenant, as the case may be, and until such time as a building is built and opened for operation on the lot on which the Right-of-Way is located, keep the Right-of-Way free of accumulations of dirt, rubbish, snow and ice. If a building is built and opened for operation on the lot on which the Right-of-Way is located, the cost of such maintenance for which responsibility has not been allocated to Ground Lessor under the preceding sentence shall be borne by Sublandlord or Subtenant and Hotel Subtenant, as the case may be, and the ground lessee of such lot in proportion to the relative square footage of the Building and such other building until the Assignment Date. Subtenant hereby acknowledges that the obligation of Ground Lessor or Sublandlord to perform Maintenance Obligations is expressly conditioned upon Subtenant's compliance with its obligations under Section 26.04. The parties contemplate that, after the completion of construction pursuant to the Section 26.01, and Ground Lessor's bringing the utilities identified in clauses 26.01(a)(i)-(iv) to the Building, Maintenance Obligations for the portion of the Civic Facilities identified in clause 26.01 (i) shall be performed by the appropriate utility companies and for those portions of the Civic Facilities identified in clauses 26.01(a) (ii) through (vii) shall be performed by New York City. Notwithstanding the initial sentence of this Section 26.02, Maintenance Obligations on the part of Ground Lessor in respect of any portion of the Civic Facilities identified in clauses 26.01(a) (i) through (vii) shall terminate on the date that the appropriate utility company or New York City, as the case may be, shall commence performance of Maintenance Obligations in respect of same (and shall resume on the date that the appropriate utility company or New York City, as the case may be, shall cease performance of Maintenance Obligations in respect of same). Sublandlord shall, prior to the Assignment Date, cause Ground Lessor to promptly notify Subtenant of any of the foregoing and after the Assignment Date, shall promptly notify Subtenant of any of the foregoing.

SECTION 26.03 Subtenant's sole remedies for a failure by Sublandlord, prior to the Assignment Date, to cause Ground Lessor to perform Landlord's Construction Obligations or a failure by the Sublandlord after the Assignment Date, to perform Landlord's Construction Obligations shall be (i) an extension of the Scheduled Completion Date by an amount of time equal to the time, if any, by which Sublandlord's construction of the Building has been delayed as a result of such failure, which delay shall constitute an Unavoidable Delay, and (ii) the right to engage in Self-Help, as defined in Section 26.03(b), and to receive the offset against Base Rent and Retail Civic Facilities Payment provided for in Section 26.03(c) (collectively, the "Approved Remedies"). Sublandlord's failure, prior to the Assignment Date, to cause Ground Lessor to perform Landlord's Construction Obligations or, after the Assignment Date, to perform Landlord's Construction Obligations shall not give rise to any right or remedy except the Approved Remedies, or entitle Subtenant to any discount from or offset against any Rental except as set forth in Section 26.03(c) or to any other damages, and no delay, non-performance or part performance by Sublandlord or Ground Lessor under Section 26.01 shall release Subtenant from or modify any of its obligations under this Lease except as provided herein. Subtenant's sole remedies against Sublandlord for (i) a failure by Sublandlord, prior to the Assignment Date, to cause Ground Lessor to perform its Maintenance Obligations in accordance with Section 26.02 or (ii) a failure by the Sublandlord to perform its Maintenance Obligations on and following the Assignment Date in accordance with Section 26.02, shall be the right to engage in Self-Help and to receive the offset against Retail Civic Facilities Payments provided for in Section 26.03(c), and no such failure shall entitle Subtenant to any other right, remedy or damages against Sublandlord or Ground Lessor. Notwithstanding the provisions of Section 26.03(b), Subtenant shall not be entitled to exercise any of the Approved Remedies at any time that a Default exists under this Sublease. No delay, non-performance or part performance by Sublandlord or Ground Lessor under Section 26.02 shall release Subtenant from any of its obligations under this Sublease. The election by Subtenant of any remedy specified in this Section 26.03(a) shall not preclude Subtenant from pursuing any other available remedy specifically set forth in this Section 26.03(a).

(a) If (subject to Unavoidable Delays)(i) prior to the Assignment Date, Sublandlord fails to cause Ground Lessor to perform the Landlord's Construction Obligations or thereafter to substantially complete Landlord's Civic Facilities as provided in Section 26.01 with reasonable diligence (ii) prior to the Assignment Date, Sublandlord fails to cause Ground Lessor to perform any of Landlord's Maintenance Obligations, (iii) after the Assignment Date, Sublandlord fails to perform Landlord's Construction Obligations or (iv) after the Assignment Date, Sublandlord fails to perform any of Landlord's Maintenance Obligations, Subtenant (in its own name and not as agent of Landlord) shall have the right (but shall not be obligated) to undertake Landlord's Construction Obligations or Landlord's Maintenance Obligations, as the case may be ("Self-Help"), in accordance with the provisions of this Section 26.03(b). Prior to engaging in Self-Help, Subtenant shall give Sublandlord and Ground Lessor written notice specifying the nature of Sublandlord's and Ground Lessor's failure and advising of Tenant's intention to engage in Self-Help. If Sublandlord or Ground Lessor shall not have remedied the failure complained of prior to the thirtieth (30th) day after such notice, Subtenant shall be entitled to engage in Self-Help, provided that, if such failure shall be of a nature that the same cannot be completely remedied within said thirty (30) day period, Subtenant shall not be entitled to engage in Self-Help if Sublandlord or Ground Lessor commences to remedy such failure within such period and thereafter diligently and continuously proceeds to remedy same. In furtherance of Subtenant's exercise of the right of Self-Help set forth in this Section 26.03(b), Sublandlord, upon reasonable notice, shall permit, if prior to the Assignment

Date, or Sublandlord shall cause Ground Lessor to permit, if after the Assignment Date, Subtenant and its agents or representatives or Mortgagees to inspect Landlord's Civic Facilities at all reasonable times for the purpose of determining whether or not Ground Lessor or Sublandlord is in compliance with Landlord's Construction Obligations and Landlord's Maintenance Obligations. Sublandlord hereby grants Subtenant (and its agents, representatives and Mortgagees) the right to enter upon Landlord's Civic Facilities in order to perform Self-Help in accordance with this Section 26.03(b). Subtenant shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damage to Sublandlord or Ground Lessor by reason of Subtenant's exercise of the right of Self-Help hereunder, provided Subtenant shall use reasonable efforts to minimize damage caused by Subtenant in the exercise of its right of Self-Help.

(b) In the event Subtenant engages in Self-Help as provided in Section 26.03(b) with respect to Landlord's Construction Obligations, after submission to Sublandlord of a written statement of Subtenant's expenses with supporting documentation, Subtenant shall have the right to offset against the next installment(s) of Base Rent and Retail Civic Facilities Payment an amount equal to the reasonable expenses thereby incurred and/or theretofore paid by Subtenant together with interest thereon at the Involuntary Rate computed with respect to each payment made by Subtenant under this Section 26.03(c) from the date payment is made or incurred until the date(s) Subtenant effectuates the offset(s). In the event Subtenant engages in Self-Help as provided in Section 26.03(b) with respect to Landlord's Maintenance Obligations, after submission to Sublandlord of a written statement of Subtenant's expenses with supporting documentation, Subtenant shall have the right to offset against the next installment(s) of Retail Civic Facilities Payment an amount equal to the reasonable expenses thereby incurred and/or theretofore paid by Subtenant together with interest thereon at the Involuntary Rate computed with respect to each payment made by Subtenant under this Section 26.03(c) from the date payment is made or the expense is incurred until the date(s) Subtenant effectuates the offset(s).

(c) In the event Sublandlord shall fail (i), prior to Assignment Date, to cause Ground Lessor to perform Landlord's Construction Obligations or Landlord's Maintenance Obligations, or (ii) after the Assignment Date, to perform Landlord's Construction Obligations or Landlord's Maintenance Obligations, Sublandlord shall incur no penalty or liability and Subtenant shall have no remedies or rights other than as expressly provided herein, it being agreed by the parties that Sublandlord shall not be deemed a failure by Sublandlord to perform a substantial obligation on Sublandlord's part to be performed under this Sublease.

SECTION 26.04 As its allocable share of the cost of operating, maintaining, repairing, restoring, replacing and upgrading the Civic Facilities, Subtenant, for each Lease Year or portion thereof commencing on the first day of the third Lease Year and ending on the last day of the Term, shall pay to Sublandlord an annual sum (the "Retail Civic Facilities Payment") in an amount equal to Seventy-Five Thousand Dollars (\$75,000.00), payable in equal monthly installments commencing on the first day of the third Lease Year and on the first day of each month thereafter during the Term. The Retail Civic Facilities Payment shall be increased in each Lease Year to an amount which is three percent (3%) per annum in excess of the Retail Civic Facilities Payment for the immediately prior Lease Year. It is understood and agreed by Subtenant that the Retail Civic Facilities Payment, including the three percent (3%) annual escalation, is an agreed-upon fixed amount which does not necessarily reflect the actual costs of maintaining the Civic Facilities, the actual percentage share thereof of Subtenant or the actual annual increase in such costs, and that the

Retail Civic Facilities Payment shall neither increase nor decrease in proportion to any increases or decreases in the actual Civic Facilities costs.

SECTION 26.05 If from and after the Assignment Date (before which the relevant provisions of the Ground Lease shall control), all or any part of Landlord's Civic Facilities or Tenant's Civic Facilities, as the case may be, shall be destroyed or damaged in whole or in part by fire or other casualty of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, the party responsible for initial construction of said Civic Facilities, at no cost and expense to the other, whether or not such damage or destruction shall have been insured or insurable, and whether or not insurance proceeds, if any, shall be sufficient for the purpose shall restore or cause to be restored with reasonable diligence (subject to Unavoidable Delays) such Civic Facilities as nearly as practicable to the character and utility existing immediately prior to such occurrence and using materials of equal or better quality. Notwithstanding the foregoing to the contrary, in the event that, after the Assignment Date, such casualty to Landlord's Civic Facilities occurs at a time when there has been a casualty to, or condemnation of all or any part of the Premises and Subtenant fails to Restore the Premises, Sublandlord shall have no obligation to restore Landlord's Civic Facilities as set forth above.

SECTION 26.06 If at any time during the Term from and after the Assignment Date (before which the relevant provisions of the Ground Lease shall control) there shall be a taking by any lawful power or authority through the exercise of the right of condemnation or eminent domain of the whole or a part of Landlord's or Tenant's Civic Facilities, as the case may be, or there shall be an agreement in lieu of a taking between Sublandlord and those authorized to exercise such right, Sublandlord shall receive the award attributable to the Civic Facilities so taken, as provided in Article 9, and at Sublandlord's sole cost and expense, whether or not the award or awards, if any, payable to Sublandlord are sufficient for the purpose, shall proceed with reasonable diligence (subject to Unavoidable Delays) to restore to the extent practicable any remaining portion of the Civic Facilities not so taken to a complete, self-contained unit. Sublandlord shall hold the award or awards received by it with respect to such taking in trust for the sole purpose of paying the cost of restoring the remaining portion of the Civic Facilities not so taken, and Sublandlord shall apply such award or awards first to the payment in full of the cost of such restoration before using any part of the same for any other purpose. Anything contained herein to the contrary notwithstanding, in no event shall Sublandlord's liability hereunder as trustee exceed the amount of the award or awards received by Sublandlord, as reduced by the portion thereof applied to the restoration. Upon completion of the restoration, Sublandlord may pay over to itself the unapplied award or awards and the trust obligations hereunder with respect to such award or awards shall terminate. Notwithstanding the foregoing to the contrary, in the event that such condemnation of Landlord's Civic Facilities occurs at a time when there has been a casualty to, or condemnation of, less than Substantially all of the Premises and Subtenant fails to Restore any remaining part of the Premises not so taken in accordance with Section 9.03 hereof, Landlord shall have no obligation to restore Landlord's Civic Facilities as set forth above.

SECTION 26.07 (a) Subtenant's use of the Premises hereunder is hereby made expressly subordinate to an easement to the public for pedestrian traffic alongside Vesey Street, as such easement is more particularly described on Exhibit A annexed hereto.

(b) Ground Lessor has granted to Sublandlord and Sublandlord hereby grants to Subtenant its interest in a non-exclusive easement for ingress and egress over the Right-of-Way. Such easement in the minimum width of 20 feet as provided in Section 26.01(a)(xiii) is to be included in a memorandum of lease to be recorded with respect to the Ground Lease. Use of the Right-of-Way shall be restricted to pedestrian traffic and neither party shall permit vehicular traffic or other uses thereon without the prior reasonable consent of the other party except that consent shall not be required for (a) vehicular traffic by either party or by the tenant for Site 26 to the east of the Building for emergency or routine maintenance access or (b) vehicular traffic or other uses related to the initial construction, reconstruction, restoration, repair or extraordinary maintenance of the Right-of-Way by or on behalf of Sublandlord or Ground Lessor upon prior written notice to Subtenant. Sublandlord and Subtenant shall keep each other and Ground Lessor (if prior to the Assignment Date) informed regarding the scheduling and extent of routine maintenance activities with respect to the Right-of-Way. With respect to such construction, reconstruction, restoration, repair or maintenance activities by either party (or Ground Lessor, if prior to the Assignment Date), including the work described in paragraph (c) below, such parties (or their designees) shall (i) use all reasonable efforts to minimize interference with the operation of business in the Building or any building constructed on Site 26 to the east of the Building and perform such work in a prompt, safe and efficient manner and (ii) take such precaution as may be necessary or appropriate to prevent any damage to the Building or injury to any Persons.

(c) Upon notice from Sublandlord attaching a copy of the notice Sublandlord received from Ground Lessor (if prior to the Assignment Date or) upon notice from Sublandlord (if after the Assignment Date), Ground Lessor, Sublandlord, or their designee, as the case may be, shall have the right to attach an enclosure or other covering to the Building over the Right-of-Way as more fully described in the Design Guidelines and to perform such work as is necessary to attach such enclosure or covering to the Building as described in the Design Guidelines, provided that such enclosure or covering and the work necessary to construct, attach, maintain and repair same does not affect in any respect the soundness or structural integrity of the Building. Prior to the Assignment Date, Sublandlord shall cause Ground Lessor to and after the Assignment Date, Sublandlord shall itself, procure and maintain such workers' compensation, property and general liability insurance as would be maintained by a reasonably prudent person given the scope of work to be performed. Subtenant and Sublandlord hereby acknowledges that Ground Lessor, pursuant to Section 26.07(c) of the Ground Lease, has agreed to indemnify and hold harmless, Sublandlord, Subtenant, Hotel Subtenant, and their respective agents, directors, officers and employees, with respect to out-of-pocket costs actually incurred by Subtenant by reason of performance of the work described in this Section 26.07(c), except to the extent that same shall have been caused in whole or in part by the negligence or wrongful act of any of the foregoing indemnitees. The design of such enclosure or covering shall be subject to and reviewed in accordance with the Design Guidelines. Maintenance and repair of such enclosure or covering shall be performed by Ground Lessor at Ground Lessor's cost and expense.

ARTICLE XXVII

STREETS

Sublandlord represents and warrants that within the Project Area, the following streets have been mapped as New York City public streets and are open for public use: North End Avenue, between North End Avenue and West Street, Warren Street, Murray Street and Vesey Street, subject to the provisions of the Storage and Staging Letter and generally applicable policies and procedures for partial closures of public streets.

ARTICLE XXVIII

STREET WIDENING

If at any time during the Term any proceedings are instituted or orders made by any Governmental Authority for the widening or other enlargement of any street contiguous to the Building requiring removal of any projection or encroachment on, under or above any such street, or any changes or alterations upon the Premises, or in the sidewalks, vaults (other than vaults which are under the control of, or are maintained or repaired by, a utility company), gutters, curbs or appurtenances, Subtenant, with reasonable diligence (subject to Unavoidable Delays) shall comply with such requirements, and on Subtenant's failure to do so, Sublandlord may comply with the same in accordance with the provisions of Article 21. Subtenant shall be permitted to contest in good faith any proceeding or order for street widening instituted or made by any Governmental Authority, provided that during the pendency of such contest Subtenant deposits with Ground Lessor security in amount and form reasonably satisfactory to Ground Lessor for the performance of the work required in the event that Subtenant's contest should fail. In no event shall Subtenant permit Sublandlord or Ground Lessor to become liable for any civil or criminal liability or penalty as a result of Subtenant's failure to comply with reasonable diligence (subject to Unavoidable Delays) with any of the foregoing orders. Any widening or other enlargement of any such street and the award or damages in respect thereto shall be deemed a partial condemnation and be subject to the provisions of Article 9.

ARTICLE XXIX

SUBORDINATION; ATTORNMENT

SECTION 29.01 Sublandlord's interest in this Sublease, as this Sublease may be modified, amended or supplemented, shall not be subject or subordinate to, but rather shall be superior to, (a) any mortgage now or hereafter placed upon Subtenant's interest in this Sublease or (b) any other liens or encumbrances hereafter affecting Subtenant's interest in this Sublease.

SECTION 29.02 BPCA (in its capacity as landlord under the Ground Lease) and Subtenant are simultaneously herewith executing that certain Non-Disturbance and Recognition Agreement (the "Recognition Agreement"), which is binding on BPCA's successors and assigns and benefits Subtenant's successors and assigns, and which provides that if the Ground Lease is terminated, (i) BPCA (or the then holder of the reversionary interest in the premises demised by this

Sublease) will recognize Subtenant under this Sublease and (ii) Subtenant will attorn to BPCA (or the then holder of the reversionary interest in the premises demised by this Sublease) and will recognize such holder as Subtenant's landlord under this Sublease. Either party shall, upon the request of the other, execute and deliver any further instrument which may be reasonably necessary or appropriate to evidence such recognition and attornment. Subtenant waives the provision of any statute or rule of law now or hereafter in effect which may give or purport to give Subtenant any right of election to terminate this Sublease or to surrender possession of the Premises in the event any proceeding is brought to terminate the Ground Lease, and agrees that this Sublease shall not be affected in any way whatsoever by any such proceeding.

SECTION 29.03 This Sublease shall be expressly subject and subordinate to all of the terms, covenants, conditions, provisions and agreements contained in the Master Lease and the Ground Lease (as in effect on the date hereof), to the extent such terms, covenants, conditions, provisions, and agreements relate to the Premises, the Civic Facilities or portions of the Building serving or affecting the Premises. Notwithstanding the foregoing to the contrary, however, the termination of the Master Lease, and after the Assignment Date, the Ground Lease, shall not result in a termination of this Sublease.

ARTICLE XXX

EXCAVATIONS AND SHORING

If any excavation shall be made or contemplated to be made for construction or other purposes upon property adjacent to the Premises, Subtenant either:

(a) shall afford to Sublandlord or, at Sublandlord's option, to the person or persons causing or authorized to cause such excavation the right to enter upon the Premises in a reasonable manner for the purpose of doing such work as may be necessary, without expense to Subtenant, to preserve any of the walls or structures of the Building from injury or damage and to support the same by proper foundations, provided that (i) such work shall be done promptly, in a good and workmanlike manner and subject to all applicable Requirements, (ii) Subtenant shall have an opportunity to have its representatives present during all such work and (iii) Subtenant shall be indemnified by Sublandlord in the event Sublandlord performs such excavation, or such other person performing such excavation, as the case may be, against any injury or damage to the Building or persons or property therein which may result from any such work, but shall not have any claim against Sublandlord for suspension, diminution, abatement, offset or reduction of Rental payable by Subtenant hereunder; or

(b) shall do or cause to be done all such work, at Sublandlord's or such other person's expense, as may be necessary to preserve any of the walls or structures of the Premises from injury or damage and to support the same by proper foundations, provided that Subtenant shall not, by reason of any such excavation or work, have any claim against Sublandlord for damages or for indemnity or for suspension, diminution, abatement, offset or reduction of Rental payable by Subtenant hereunder.

ARTICLE XXXI

CERTIFICATES BY SUBLANDLORD AND SUBTENANT

SECTION 31.01 At any time and from time to time upon not less than ten (10) days notice by Sublandlord, Subtenant shall execute, acknowledge and deliver to Sublandlord or any other party specified by Sublandlord a statement certifying that this Sublease is unmodified and in full force and effect (or if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications) and the date to which each obligation constituting Rental has been paid, and stating whether or not to the best knowledge of Subtenant, Sublandlord is in default in the performance of any covenant, agreement or condition contained in this Sublease, and, if so, specifying each such default of which Subtenant may have knowledge.

SECTION 31.02 At any time and from time to time upon not less than ten (10) days notice by Subtenant or a Mortgagee, Sublandlord shall execute, acknowledge and deliver to Subtenant or such Mortgagee or any other party specified by Subtenant a statement certifying that this Sublease is unmodified and in full force and effect (or if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications) and the date to which each obligation constituting Rental has been paid, and stating whether or not to the best knowledge of Sublandlord, Subtenant is in Default in the performance of any covenant, agreement or condition contained in this Sublease, and, if so, specifying each such Default of which Sublandlord may have knowledge.

SECTION 31.03 At the request of Subtenant or any Mortgagee, Sublandlord shall request a certificate in respect of the Master Lease from Master Lessor and/or a certification in respect of the Ground Lease from Ground Lessor. If Master or Ground Lessor shall fail to deliver such a certificate, then, in lieu thereof, Sublandlord shall execute, acknowledge and deliver to Subtenant a statement certifying that Sublandlord has no knowledge of any instrument modifying the Master Lease and has not executed and delivered to Ground Lessor any instrument modifying the Ground Lease (or if Sublandlord has executed or has knowledge of such an instrument, stating the modifications) and that, to the best of Sublandlord's knowledge, the Master Lease and Ground Lease are in full force and effect and no default exists thereunder.

ARTICLE XXXII

CONSENTS AND APPROVALS

SECTION 32.01 Except as otherwise expressly set forth in this Sublease, all consents and approvals which may be given under this Sublease shall, as a condition of their effectiveness, be in writing. The granting of any consent or approval by a party to perform any act requiring consent or approval under the terms of this Sublease or the failure on the part of a party to object to any such action taken without the required consent or approval, shall not be deemed a waiver by the party whose consent was required of its right to require such consent or approval for any further similar act.

SECTION 32.02 If, pursuant to the terms of this Sublease, any consent or approval by Sublandlord or Subtenant is required, then unless expressly provided otherwise in this Sublease, if

the party who is to give its consent or approval shall not have notified the other party within fifteen (15) Business Days or such other period as expressly specified in this Sublease after receiving such other party's request for a consent or approval that such consent or approval is granted or denied, and if denied, the reasons therefor in reasonable detail, such consent or approval shall be deemed granted. If, pursuant to the terms of this Sublease, any consent or approval by Sublandlord or Subtenant is not to be unreasonably withheld or is subject to a specified standard, then in the event there shall be a final determination that the consent or approval was unreasonably withheld or that such specified standard has been met so that the consent or approval should have been granted, the consent or approval shall be deemed granted and such granting of the consent or approval shall be the only remedy to the party requesting or requiring the consent or approval.

SECTION 32.03 If, pursuant to the terms of this Sublease, any consent or approval by Sublandlord or Subtenant is not to be unreasonably withheld, such consent or approval shall, in addition, not be unreasonably delayed. In addition, if Sublandlord is also the landlord under the Master Lease and/or under the Ground Lease, Sublandlord's consent or approval given hereunder shall also be deemed to be the consent or approval of the landlord under the Master Lease and/or under the Ground Lease (as the case may be) if and to the extent that the consent of the landlord under the Master Lease and/or under the Ground Lease (as the case may be) is required under either such lease.

SECTION 32.04 Except as specifically provided herein, no fees or charges of any kind or amount shall be required by either party hereto as a condition of the grant of any consent or approval which may be required under this Sublease.

ARTICLE XXXIII

SURRENDER AT END OF TERM

SECTION 33.01 On the last day of the Term or upon any earlier termination of this Sublease, or upon a re-entry by Sublandlord upon the Premises pursuant to Article 24 hereof, Subtenant shall remove its personal property and equipment and shall well and truly surrender and deliver up to Sublandlord the Premises in good order, condition and repair, reasonable wear and tear excepted, free and clear of all lettings, occupancies, liens and encumbrances, other than those, if any, which (a) exist at the date hereof, (b) are or were created by or consented to by Sublandlord or (c) by their express terms and conditions extend beyond the Expiration Date, and which Sublandlord shall have consented and agreed, in writing, may extend beyond the Expiration Date, without any payment or allowance whatever by Sublandlord. Subtenant hereby waives any notice now or hereafter required by law with respect to vacating the Premises on any such termination date.

SECTION 33.02 On the last day of the Term or upon any earlier termination of the Sublease, or upon a re-entry by Sublandlord upon the Premises pursuant to Article 24 hereof, Subtenant shall deliver to Sublandlord Subtenant's executed counterparts of all Sub-Subleases and any service and maintenance contracts then affecting the Premises for the past three (3) years, true and complete maintenance records for the Premises, all original licenses and permits then pertaining to the Premises, permanent or temporary Certificates of Occupancy then in effect for the Premises, and all warranties and guarantees then in effect which Subtenant has received in connection with

any work or services performed or Equipment installed in the Building, together with a duly executed assignment thereof to Sublandlord, all financial reports, books and records required by Article 38 hereof and any and all other documents of every kind and nature whatsoever relating to the operation of the Premises.

SECTION 33.03 Any personal property of Subtenant or of any Sub-Subtenant which shall remain on the Premises for thirty (30) days after the termination of this Sublease and after the removal of Subtenant or such Sub-Subtenant from the Premises, may, at the option of Sublandlord, be deemed to have been abandoned by Sub-Subtenant or such Subtenant and either may be retained by Sublandlord as its property or be disposed of, without accountability, in such manner as Sublandlord may see fit. Sublandlord shall not be responsible for any loss or damage occurring to any such property owned by Subtenant or any Sub-Subtenant.

SECTION 33.04 The provisions of this Article 33 shall survive any termination of this Sublease.

ARTICLE XXXIV

ENTIRE AGREEMENT

This Sublease, together with the Exhibits and Schedules hereto and subject to the terms and conditions of the Master Lease and the Ground Lease, contains all the promises, agreements, conditions, inducements and understandings between Sublandlord and Subtenant relative to the Premises and there are no promises, agreements, conditions, understandings, inducements, warranties, or representations, oral or written, expressed or implied, between them other than as herein or therein set forth and other than as may be expressly contained in any written agreement between the parties executed simultaneously herewith.

ARTICLE XXXV

QUIET ENJOYMENT

Sublandlord covenants that Subtenant shall and may (subject, however, to the exceptions, reservations, terms and conditions of this Sublease) peaceably and quietly have, hold and enjoy the Premises for the term hereby granted without molestation or disturbance by or from Sublandlord or any Person claiming through Sublandlord and free of any encumbrance created or suffered by Sublandlord, except those encumbrances, liens or defects of title, created or suffered by Subtenant and the Title Matters.

ARTICLE XXXVI

APPRAISAL AND ARBITRATION

SECTION 36.01 In such cases where this Sublease expressly provides for the settlement of a dispute or question by appraisal, and only in such cases, Sublandlord and Subtenant shall jointly select an appraiser. If within a ten (10) day period the parties have not so agreed, then

either party, on behalf of both, may apply to the Supreme Court of the State of New York, New York County, for the appointment of such appraiser and the other party shall not raise any question as to the Court's full power and jurisdiction to entertain the application and make the appointment. Any appraiser selected or appointed pursuant to this Section shall be a member of the American Institute of Real Estate Appraisers (or a successor organization), shall be an appraiser, and shall have been doing business as such in the Borough of Manhattan for a period of at least ten (10) years before the date of her/his appointment. All appraisers chosen or appointed pursuant to this Section shall be sworn to fairly and impartially perform their duties as appraisers hereunder. In the event of failure, refusal or inability of any appraiser to act, a successor shall be appointed within seven (7) days by the parties or in the event the parties shall fail so to appoint such successor, the successor shall be appointed by the Court in the manner hereinabove provided. The fees and expenses of all appraisers shall be shared jointly by the parties. Each party shall be responsible for the fees and expenses of its own attorneys and other representatives. Photocopies of the reports of all appraisers shall be provided to all the parties. The decision of the appraisers shall be binding upon the parties. In rendering its decision, the appraisers shall have no power to modify or reform any of the provisions of this Sublease. Any appraisal shall be conducted in the City and County of New York.

SECTION 36.02 In such cases where this Sublease expressly provides for the settlement of a dispute or question by arbitration, and only in such cases, the party desiring arbitration shall appoint a disinterested person as arbitrator on its behalf and give notice thereof to the other party who shall, within ten (10) days thereafter, appoint a second disinterested person as arbitrator on its behalf and give notice thereof to the first party. The two (2) arbitrators thus appointed shall together appoint a third disinterested person within ten (10) days after the appointment of the second arbitrator, and said three (3) arbitrators shall, as promptly as possible, determine the matter which is the subject of the arbitration and the decision of the majority of them shall be conclusive and binding on all parties and judgment upon the award may be entered in any court having jurisdiction. If a party who shall have the right pursuant to the foregoing to appoint an arbitrator fails or neglects to do so, then and in such event, the other party (or if the two (2) arbitrators appointed by the parties shall fail to appoint a third arbitrator when required hereunder, then either party) may apply to the American Arbitration Association (or any organization successor thereto), or in its absence, refusal, failure or inability to act, may apply for a court appointment of such arbitrator. The arbitration shall be conducted in the City and County of New York and, to the extent applicable and consistent with this Section 36.02, shall be in accordance with the Commercial Arbitration Rules then obtaining of the American Arbitration Association or any successor body. The expenses of arbitration shall be shared equally by Sublandlord and Subtenant, but each party shall be responsible for the fees and disbursements of its own attorneys and the expenses of its own proof. Sublandlord and Subtenant shall sign all documents and do all other things necessary to submit any such matter to arbitration and further shall, and hereby do, waive any and all rights they or either of them may at any time have to revoke their agreement hereunder to submit to arbitration and to abide by the decision rendered thereunder. The arbitrators shall have no power to vary, modify or reform any of the provisions of this Sublease and their jurisdiction is limited accordingly. If the arbitration concerns any Capital Improvement or Restoration, then each of the arbitrators shall be a licensed professional engineer or registered architect having at least ten (10) years' experience in the design of commercial buildings, and, to the extent applicable and consistent with this Section 36.02, such arbitration shall be conducted in accordance with the Construction Arbitration Rules then obtaining of the American Arbitration Association or any successor body of similar function.

Subtenant shall, and the Sublandlord acknowledges that Subtenant shall, send copies of requests for, and notices and correspondence in respect of, any arbitration conducted hereunder to the Mortgagees. In addition, the parties agree that any Mortgagee (or its representatives) may attend any hearing(s) conducted in the course of any such arbitration.

ARTICLE XXXVII

INVALIDITY OF CERTAIN PROVISIONS

If any term or provision of this Sublease or the application thereof to any Person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Sublease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Sublease shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE XXXVIII

FINANCIAL REPORTS

SECTION 38.01 Subtenant shall furnish to Sublandlord as soon as practicable after the end of each fiscal year of Subtenant, and in any event within one hundred and twenty (120) days thereafter, financial statements of operations of the Premises, for such year, setting forth in each case, in comparative form, the corresponding figures for the previous fiscal year, all in reasonable detail and accompanied by a report and opinion thereon of the Certified Public Accountant, which report and opinion shall be prepared in accordance with Accounting Principles consistently applied.

SECTION 38.02 Upon Sublandlord's request, if at any time Subtenant shall furnish to any Mortgagee operating statements or financial reports, Subtenant promptly shall furnish to Sublandlord copies of all such operating statements and financial reports. At the time at which Subtenant furnishes any such operating statements or reports, Subtenant may inform Sublandlord of its belief that the public disclosure of information contained therein or any part thereof would cause substantial injury to the competitive position of Subtenant's enterprise and request that, to the extent permitted by law, Sublandlord attempt to avoid such disclosure. In the event Subtenant makes such request, Sublandlord shall use its best efforts to avoid such disclosure (but shall incur no liability to Subtenant if Sublandlord reasonably believes it is complying with any provision of applicable law requiring such disclosure). Sublandlord shall (i) promptly notify Subtenant if it receives any request for disclosure, (ii) keep Subtenant advised of (and promptly copy Subtenant on) any communications that Sublandlord has with (or receives from) any party making the request for disclosure, (iii) notify Subtenant that it intends to make any disclosure, immediately after making any such decision and at least five (5) Business Days prior to the actual disclosure and (iv) copy Subtenant on any such disclosure.

SECTION 38.03 Subtenant shall keep and maintain at all times full and correct records and books of account of the operations of the Premises in accordance with the Accounting Principles and otherwise in accordance with any applicable provisions of each Mortgage and accurately shall record and preserve for a period of six (6) years the record of its operations upon

the Premises. Within fifteen (15) days after request by Sublandlord, Subtenant shall make said records and books of account available from time to time for inspection by Sublandlord and Sublandlord's designee during reasonable business hours at a location designated by Subtenant in New York City. At any time at which Subtenant shall make said records and books of account available for inspection, it may inform Sublandlord of its belief that the public disclosure of the information contained therein or any part thereof would cause substantial injury to the competitive position of Subtenant's enterprise and request that to the extent permitted by law Sublandlord attempt to avoid such disclosure. In the event Subtenant makes such request, Sublandlord shall use its best efforts to avoid such disclosure (but shall incur no liability to Subtenant if Sublandlord reasonably believes it is complying with any provision of applicable law requiring such disclosure). Sublandlord shall, and shall use reasonable efforts to cause Ground Lessor to, (i) promptly notify Subtenant if it receives any request for disclosure, (ii) keep Subtenant advised of (and promptly copy Subtenant on) any communications that Sublandlord has with (or receives from) any party making the request for disclosure, (iii) notify Subtenant that it intends to make any disclosure, immediately after making any such decision and at least five (5) Business Days prior to the actual disclosure and (iv) copy Subtenant on any such disclosure.

ARTICLE XXXIX

RECORDING OF MEMORANDUM

Either Sublandlord or Subtenant may record a memorandum of this Sublease or any amendment or modification of this Sublease. Each shall, upon the request of the other, join in the execution of a memorandum of this Sublease or a memorandum of any amendment or modification of this Sublease in proper form for recordation.

ARTICLE XL

NO DISCRIMINATION

SECTION 40.01 Subtenant, in connection with the erection, maintenance, repair, restoration, alteration or replacement of, or addition to, the Building shall (a) not discriminate nor permit discrimination against any person by reason of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status and (b) comply with all applicable Federal, State and local laws, ordinances, rules and regulations from time to time in effect prohibiting such discrimination.

SECTION 40.02 Subtenant shall be bound by and shall include the following paragraphs (a) through (e) of this Section 40.02 in all construction contracts, service and management agreements and agreements for the purchase of goods and services (or in amendments to such contracts or agreements) relating to the operation of the Premises in such manner that these provisions shall be binding upon the parties with whom such agreements are entered into (any party being bound by such provisions shall be referred to in this Section as "Contractor"):

(a) Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, religion, national origin, ancestry, sex, age, disability or

marital status, shall comply with all applicable Federal, State and local laws, ordinances, rules and regulations from time to time in effect prohibiting such discrimination or pertaining to equal employment opportunities, and shall undertake programs of affirmative action to ensure that employees and applicants for employment are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.

(b) Contractor shall request each employment agency, labor union and authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish it with a written statement that such employment agency, labor union or representative will not discriminate because of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status and that such agency, union or representative will cooperate in the implementation of contractor's obligations hereunder.

(c) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of contractor that all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status.

(d) Contractor shall comply with all of the provisions of the Civil Rights Law of the State of New York and Sections 291-299 of the Executive Law of the State of New York, shall upon reasonable notice furnish all information and reports deemed reasonably necessary by Sublandlord and shall permit access to its relevant books, records and accounts for the purpose of monitoring compliance with the Civil Rights Law and such sections of the Executive Law.

(e) Contractor shall include in all agreements with subcontractors the foregoing provisions of Sections (a) through (d) in such a manner that said provisions shall be binding upon the subcontractor and enforceable by Contractor, Subtenant and Sublandlord. Contractor shall take such commercially reasonable action as may be necessary to enforce the foregoing provisions. Contractor shall promptly notify Subtenant and Sublandlord of any litigation commenced by or against it arising out of the application or enforcement of these provisions, and Subtenant and Sublandlord may intervene in any such litigation.

ARTICLE XLI

MISCELLANEOUS

SECTION 41.01 The captions of this Sublease are for convenience of reference only and in no way define, limit or describe the scope or intent of this Sublease or in any way affect this Sublease.

SECTION 41.02 The Table of Contents is for the purpose of convenience of reference only and is not to be deemed or construed in any way as part of this Sublease or as supplemental thereto or amendatory thereof.

SECTION 41.03 The use herein of the neuter pronoun in any reference to Sublandlord or Subtenant shall be deemed to include any individual Sublandlord or Subtenant, and the use herein of the words "successors and assigns" or "successors or assigns" of Sublandlord or Subtenant shall be deemed to include the heirs, legal representatives and assigns of any individual Sublandlord or Subtenant.

SECTION 41.04 Depository may pay to itself out of the monies held by Depository pursuant to this Sublease its reasonable charges for services rendered hereunder. Subtenant shall pay Depository any additional charges for such services.

SECTION 41.05 If more than one entity is named as or becomes Subtenant hereunder, Sublandlord may require the signatures of all such entities in connection with any notice to be given or action to be taken by Subtenant hereunder except to the extent that any such entity shall designate another such entity as its attorney-in-fact to act on its behalf, which designation shall be effective until receipt by Sublandlord of notice of its revocation. Each entity named as Subtenant shall be fully liable for all of Subtenant's obligations hereunder. Any notice by Sublandlord to any entity named as Subtenant shall be sufficient and shall have the same force and effect as though given to all parties named as Subtenant. If all such parties designate in writing one entity to receive copies of all notices, Sublandlord agrees to send copies of all notices to that entity.

SECTION 41.06 The liability of either party hereto or of any Person who has at any time acted in the capacity of either party hereto hereunder (including, without limitation, a Mortgagee) for damages or otherwise shall be limited to such party's interest in the Premises, including, without limitation, the rents and profits therefrom, the proceeds of any insurance policies covering or relating to the Premises, any awards payable in connection with any condemnation of the Premises or any part thereof, and any other rights, privileges, licenses, franchises, claims, causes of action or other interests, sums or receivables appurtenant to the Premises. Neither party nor any such Person nor any of the members, directors, officers, employees, agents or servants of either shall have any liability (personal or otherwise) hereunder beyond such party's interest in the Premises, and no other property or assets of such party or any such Person or any of the members, directors, officers, employees, agents or servants of either shall be subject to levy, execution or other enforcement procedure for the satisfaction of such party's remedies hereunder. Nothing contained in this Section 41.06 shall, however, (i) modify, qualify, or affect in any matter whatsoever the personal recourse undertakings, obligations or liabilities of any person, party or entity under any guaranty of payment, other guaranty or indemnification agreement hereafter executed and delivered to Sublandlord in connection with this Sublease or the transactions contemplated hereby and thereby or (ii) constitute a waiver of the right of the Sublandlord to enforce the liability and obligation of Subtenant and any party having general partner liability therefor (or any person liable under Environmental Statutes with respect to clause (C) below), by money judgment or otherwise, to the extent of any loss, damage, cost, expense, liability, claim or other obligation incurred by Sublandlord (including reasonable attorneys' fees and costs reasonably incurred) arising out of or in connection with any of the following:

(A) fraud or intentional misrepresentation by Subtenant or any guarantor in connection with this Sublease;

(B) the willful misconduct of any guarantor;

(C) the breach of any provision of Section 14.01 (only insofar as such breach pertains to compliance with Environmental Statutes) or Section 19.01(i);

(D) the misapplication or conversion by Subtenant of (A) any insurance proceeds paid by reason of any loss, damage or destruction to the Premises or any portion thereof or equipment located therein, (B) any awards or other amounts received in connection with the condemnation of the Premises or any portion thereof or equipment located therein, or (C) any Rents following an Event of Default;

(E) any security deposits collected with respect to the Premises which are not delivered to Sublandlord upon an eviction or action in lieu thereof, except to the extent any such security deposits were applied in accordance with the terms and conditions of this Sublease, or Sub-Subleases;

(F) the intentional commission of waste, or the willful failure to stop the commission of waste, by Subtenant;

(G) any representation or warranty of Subtenant or of any guarantor made in any financial certificate, report, statement or other financial information furnished in connection with this Sublease, or any guaranty or any other documents, fraudulently misrepresenting in any material respect the financial condition of Subtenant or of any guarantor when made;

(H) any part of the Premises or equipment located in the Premises or any interest of any nature whatsoever therein (whether legal or beneficial or whether held directly or indirectly) or any interest of any nature whatsoever in Subtenant (whether held directly or indirectly) being in any manner further encumbered, sold, transferred, assigned or conveyed in contravention of the provisions of this Sublease; or

(I) any damage or destruction of the Premises or any portion thereof due to fire or other casualty to the extent not covered by insurance required under this Sublease, but only to the extent same would have been covered by insurance if Subtenant had obtained and maintained the insurance required under this Sublease.

(b) Furthermore, notwithstanding anything to the contrary in this Sublease, with respect to (i) any voluntary or involuntary bankruptcy petition filing, (ii) application for a custodian, receiver, trustee or examiner, or (iii) assignment for the benefit of creditors (whether any such action described in clauses (i) through (iii) is made with respect to Tenant or any other party), Sublandlord shall not be deemed to have waived any right which Sublandlord may have under Section 506(a), 506(b), 111(b) or any other provisions of the U.S. Bankruptcy Code to file a claim for payment in full of any amounts owing under this Sublease or to require that any guaranty securing the obligations of Subtenant hereunder shall continue to secure such obligations in accordance with the terms of this Sublease or any such guaranty.

SECTION 41.07 Except as otherwise expressly provided in this Sublease, there shall be no merger of this Sublease by reason of the same Person acquiring or holding, directly or indirectly, the lessor's and lessee's interests in this Sublease.

SECTION 41.08 Subtenant shall store all refuse from the Premises off the streets in an enclosed area on the Premises, and in a manner reasonably satisfactory to Sublandlord and in accordance with the requirements of municipal and/or private sanitation services serving the Premises.

SECTION 41.09 Each of the parties represents to the other that it has not dealt with any broker, finder or like entity in connection with this lease transaction. If any claim is made by any Person who shall claim to have acted or dealt with Subtenant or Sublandlord in connection with this transaction, Subtenant or Sublandlord as the case may be, will pay the brokerage commission, fee or other compensation to which such Person is entitled, shall indemnify and hold harmless the other party hereto against any claim asserted by such Person for any such brokerage commission, fee or other compensation and shall reimburse such other party for any costs or expenses including, without limitation, reasonable attorneys' fees and disbursements, incurred by such other party in defending itself against claims made against it for any such brokerage commission, fee or other compensation.

SECTION 41.10 This Sublease may not be changed, modified, or terminated orally, but only by a written instrument of change, modification or termination executed by the party against whom enforcement of any change, modification, or termination is sought. No change or modification shall be binding on a Mortgagee unless consented to in writing by such Mortgagee.

SECTION 41.11 This Sublease shall be governed by and construed in accordance with the laws of the State of New York.

SECTION 41.12 The agreements, terms, covenants and conditions herein shall be binding upon, and shall inure to the benefit of, Sublandlord and Subtenant and their respective successors and (except as otherwise provided herein) assigns.

SECTION 41.13 All references in this Sublease to "Articles" or "Sections" shall refer to the designated Article(s) or Section(s), as the case may be, of this Sublease.

SECTION 41.14 All of Subtenant's right, title and interest in all plans and drawings required to be furnished by Subtenant to Sublandlord under this Sublease, if any, including, without limitation, the Schematics, the Design Development Plans and the Construction Documents, and in any and all other plans, drawings, specifications or models prepared in connection with construction at the Premises, any Restoration or Capital Improvement, shall become the sole and absolute property of Sublandlord upon the Expiration Date or any earlier termination of this Sublease. Subtenant shall deliver all such documents to Sublandlord promptly upon the Expiration Date or any earlier termination of this Sublease. Subtenant's obligation under this Section 41.14 shall survive the Expiration Date.

SECTION 41.15 All references in this Sublease to "licensed professional engineer", "licensed surveyor" or "registered architect" shall mean a professional engineer, surveyor or architect who is licensed or registered, as the case may be, by the State of New York. All references in this Sublease to "rentable area" or "rental square feet" shall be determined in accordance with the Standard Method of Floor Measurement for Office Buildings, as recommendation by the Real Estate Board of New York, Inc., as such recommendation exists on the

date hereof. Any dispute as to such determination shall be resolved by arbitration pursuant to Article 36.

SECTION 41.16 After the Assignment Date, if Sublandlord or any successor to its interest hereunder ceases to have any interest in the Premises, the seller or transferor shall be and hereby is entirely freed and relieved of all agreements, covenants and obligations of Sublandlord hereunder to be performed on or after the date of sale or transfer, and it shall be deemed and construed without further agreement between the parties or their successors in interest or between the parties and the Person who acquires or owns the Sublandlord's interest in the Premises, that, subject to the provisions of Section 41.06, such Person (as successor Sublandlord) has assumed and agreed to carry out any and all agreements, covenants and obligations of Sublandlord hereunder accruing from and after the date of such acquisition, sale or transfer.

SECTION 41.17 Except as otherwise specifically provided herein, if the Subtenant named herein or any successor to its interest hereunder ceases to have any interest in the Premises or there is at any time or from time to time any valid sale or sales or disposition or dispositions or transfer or transfers of the Subtenant's or any successor's entire interest in the Premises in accordance with the provisions of Article 10, the Subtenant named herein or any such successor, as the case may be, shall be and hereby is entirely freed and relieved of all agreements, covenants and obligations of Subtenant hereunder to be performed on or after the date of such sale or transfer, and it shall be deemed and construed without further agreement between the parties or their successors in interest or between the parties and the Person who acquires or owns the Subtenant's interest in the Premises under this Sublease, including, without limitation, the purchaser or transferee in any such sale, disposition or transfer, that such Person has assumed and agreed to carry out any and all agreements, covenants and obligations of Subtenant hereunder to be performed from and after the date of such acquisition, sale or transfer.

SECTION 41.18 (a) Sublandlord shall not enter into or cause there to be entered into any amendment or supplement to the Master Lease, Master Development Plan, Memorandum of Understanding, Settlement Agreement, Purchase Option, Declaration of Restrictions, or the Design Guidelines which (a) increases, decreases or materially alters or otherwise materially affects Subtenant's rights or obligations under this Sublease, (b) limits or changes the permitted uses of the Premises or the Civic Facilities, (c) limits or changes Subtenant's rights under this Sublease to dispose of, or assign its interest in, the Premises or (d) decreases or alters the rights of a Mortgagee under this Sublease, unless the same is consented to by Subtenant (or, in the case of (d), by such Mortgagee) or is made subject and subordinate to this Sublease and such rights of such Mortgagee. In the event Sublandlord shall enter into or cause to be entered into an amendment or supplement to the Master Lease, Master Development Plan, Memorandum of Understanding, Settlement Agreement, Purchase Option, Declaration of Restrictions or the Design Guidelines which is not in conformity with this Section 41.18, Subtenant shall not be obligated to comply with the provisions of such amendment or supplement which do not so conform and the same shall have no force or effect with respect to Subtenant or any Mortgagee. Notwithstanding anything herein contained to the contrary, neither Subtenant nor any Mortgagee shall have any right to approve any amendment, modification or supplement to the Master Lease, Master Development Plan, Memorandum of Understanding, Settlement Agreement, Purchase Option, Declaration of Restrictions or the Design Guidelines which does not affect the Premises or Subtenant's leasehold estate in the Premises.

(b) From and after the Assignment Date, and for so long as either this Sublease or the Retail Sublease (or any new lease obtained by a mortgagee in replacement of either thereof) remains in effect, Sublandlord shall not (i) terminate, reject, void, revoke, cancel (or surrender its interest in) the Ground Lease or (ii) modify or amend the Ground Lease if such amendment or modification would or might increase the obligations of (or affect or increase or decrease any of the rights of) Subtenant hereunder or present a risk of forfeiture of any of the leasehold estates created by the Ground Lease or this Sublease.

SECTION 41.19 Nothing herein is intended nor shall be deemed to create a joint venture or partnership between Sublandlord and Subtenant, nor to make Sublandlord in any way responsible for the debts or losses of Subtenant.

SECTION 41.20 To the extent permitted by law, Subtenant shall have the right to all depreciation deductions, investment tax credits and other similar tax benefits attributable to any construction, demolition and Restoration performed by Subtenant or attributable to the ownership of the Premises. Sublandlord, from time to time, shall execute and deliver such instruments as Subtenant shall reasonably request in order to effect the provisions of this Section 41.20, and Subtenant shall pay Sublandlord's reasonable costs and expenses thereof. Sublandlord makes no representations as to the availability of any such deductions, credits or tax benefits.

SECTION 41.21 Whenever Sublandlord shall have the right to approve the architect, engineer or lawyer to be employed by Subtenant, any architect, engineer or lawyer so approved by Sublandlord at any time during the Term shall be deemed to be acceptable to Sublandlord for employment by Subtenant at any time thereafter, unless Sublandlord shall have good cause for refusing to allow the continued employment of such consultant. Whenever Subtenant is required to obtain Sublandlord's approval of an architect, engineer or lawyer, Subtenant shall notify Sublandlord if it intends to employ an architect, engineer or lawyer previously approved. In the event that Sublandlord shall refuse to approve the continued employment of such consultant, it shall so notify Subtenant, specifying the reason therefor.

SECTION 41.22 Sublandlord agrees that pursuant to Section 41.22 of the Ground Lease, Subtenant shall have the right to use the name "Battery Park City" in any advertising and promotional materials in connection with the leasing and operation of the Premises.

SECTION 41.23 Intentionally Omitted.

SECTION 41.24 Sublandlord hereby acknowledges that certain information to be provided by Subtenant to Sublandlord under the terms of this Sublease, including, without limitation, information pertaining to its subleasing activities, may contain proprietary or privileged information and, provided Subtenant indicates the confidential nature of such information to Sublandlord in writing simultaneously with the delivery thereof, Sublandlord covenants not to disclose such information to any third person other than those of its professionals, advisors and consultants who maintain confidential relationships with Sublandlord, unless such disclosure is required by law. Furthermore, Sublandlord agrees to provide Subtenant with at least five (5) Business Day's prior notice of any request for such information where Sublandlord reasonably believes such disclosure is legally required and such request is made by a party other than Sublandlord's professionals, advisors or consultants.

SECTION 41.25 From and after the Assignment Date, the Ground Lessor and the Sublandlord shall be one and the same entity.

SECTION 41.26 Subtenant shall not request or consent to a zoning change in respect of the Building or Premises without Sublandlord's prior written consent.

SECTION 41.27 SUBLANDLORD AND SUBTENANT HEREBY WAIVE, IRREVOCABLY AND UNCONDITIONALLY, TRIAL BY JURY IN ANY ACTION BROUGHT ON, UNDER OR BY VIRTUE OF OR RELATING IN ANY WAY TO THIS SUBLEASE OR ANY OF THE DOCUMENTS EXECUTED IN CONNECTION HERewith, THE BUILDING OR THE PREMISES, OR ANY CLAIMS, DEFENSES, RIGHTS OF SET-OFF OR OTHER ACTIONS PERTAINING HERETO OR TO ANY OF THE FOREGOING. THE PARTIES AGREE THAT ANY TRIAL SHALL BE HELD IN NEW YORK COUNTY, NEW YORK.

IN WITNESS WHEREOF, Sublandlord and Subtenant have executed this Sublease as of the day and year first above written.

BPC SITE 25 ASSOCIATES, LLC

By: BPC HOTEL, LLC

By: FCDT-BPC CORP.

By: _____

Name: Bruce Ratner

Title: President

By: FC BATTERY PARK ASSOCIATES, LLC

By: RRG BATTERY PARK, LLC

By: _____

Name: Bruce Ratner

Title: President

FC BATTERY PARK ASSOCIATES, LLC

By: RRG BATTERY PARK, LLC

By: _____

Name: Bruce Ratner

Title: President

SCHEDULE 1

BASE RENT/PILOT SCHEDULE

A. Base Rent/PILOT Schedule

<u>Lease Year</u>	<u>Base Rent</u>	<u>PILOT</u>
1	\$ -0-	\$ -0-
2	\$ -0-	\$ -0-
3	\$75,000	\$1,031,000
4	\$77,250	\$1,031,000
5	\$79,500	\$1,374,000
6	\$82,000	\$1,374,000
7	\$84,500	\$1,675,500
8	\$87,250	\$1,675,500
9	\$89,500	\$1,975,500
10	\$92,000	\$1,975,500 ¹
11	\$95,000	\$2,485,600
12	\$98,000	\$2,546,643
13	\$101,000	\$2,609,517
14	\$104,000	\$2,674,278
15	\$107,000	\$2,740,981
16	\$110,000	\$2,809,685
17	\$113,500	\$2,880,451
18	\$117,000	\$2,953,339
19	\$120,500	\$3,028,414
20	\$124,000	\$3,105,742
21	\$127,500	Taxes ² – applicable to the Retail Complex only
22	\$131,500	(until the end of the Ground Lease term)
23	See Note	

Note: Annual Base Rent for the first fifteen year period beginning with Lease Year 23 shall be an amount equal to the greater of (x) six percent (6%) of the fair market value of the Premises or (y) \$312,500.

¹ The PILOT amount indicated for Lease Year 10 plus an additional pro rata amount of such payment for the period from the end of Lease Year 10 until the first day of the next succeeding Tax Year. Thereafter, PILOT shall be paid on a Tax Year basis.

² Capitalized terms not defined in this Schedule 1 shall have the meanings set forth in the Lease.

EXHIBIT A

DESCRIPTION OF LAND AND EASEMENT

ALL that certain plot, piece or parcel of land situate, lying and being in the Borough of Manhattan, County, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of Vesey Street and the easterly side of North End Avenue;

THENCE RUNNING North 1 degree 52 minutes 50 seconds East along the easterly side of North End Avenue 259.15 feet to the corner formed by the intersection of the easterly side of North End Avenue and the southerly side of Murray Street;

THENCE North 72 degrees 28 minutes 00 seconds East along the southerly side of Murray Street a distance of 211.33 feet to a point;

THENCE South 17 degrees 32 minutes 00 seconds East 209.65 feet to a point,

THENCE South 1 degrees 52 minutes 50 seconds West 131.66 feet to the northerly side of Vesey Street;

THENCE North 88 degrees 07 minutes 10 seconds West along the northerly side of Vesey Street a distance of 269.00 feet to the corner, the point or place of beginning.

Together with the benefits and subject to the burdens, if any, of a 20 foot Pedestrian Way as set forth in the ground lease made between Battery Park City Authority and BPC Site 25 Associates, LLC being more particularly bounded and described:

ALL that certain plot, piece or parcel of land situate, lying and being in the Borough of Manhattan, County, City and State of New York bounded and described as follows:

BEGINNING at a point on the easterly line of the above described premises the following two (2) courses and distances from the intersection of the northerly line of Vesey Street and the easterly line of North End Avenue:

A. South 88 degrees 07 minutes 10 seconds East along the northerly line of Vesey Street 269.00 feet;

B. North 1 degree 52 minutes 50 seconds East along the easterly line of the above described premises 10 feet to the true point or place of BEGINNING:

1. RUNNING thence North 1 degree 52 minutes 50 seconds West along the easterly line of the above described premises 121.66 feet;

2. THENCE North 17 degrees 32 seconds 00 minutes West along the easterly line of the above described premises 209.65 feet to a point in the southerly line of Murray Street;

3. THENCE North 72 degrees 28 minutes 00 seconds East along the southerly line of Murray Street 20.00 feet;

4. THENCE South 17 degrees 32 minutes 00 seconds East 213.07 feet to a point;

5. THENCE South 1 degree 52 minutes 50 seconds West 125.08 feet to a point in the northerly line of the 10 foot Sidewalk easement;

6. THENCE North 88 degrees 07 minutes 10 seconds West along the northerly line of the 10 foot sidewalk easement 20.00 feet to the point or place of BEGINNING.

Subject to a 10 foot Sidewalk Easement as Set forth in the _____ between Battery Park City Authority and BPC Site 25 Associates, LLC being more particularly bounded and described:

All that certain plot, piece or parcel of land situate, lying and being in the Borough of Manhattan, County, City and State of New York bounded and described as follows:

BEGINNING at a point formed by the intersection of the northerly line of Vesey Street and the easterly line of North End Avenue;

1. RUNNING thence North 1 degree 52 minutes 50 seconds East along the Easterly line of North End Avenue, 10.00 feet;

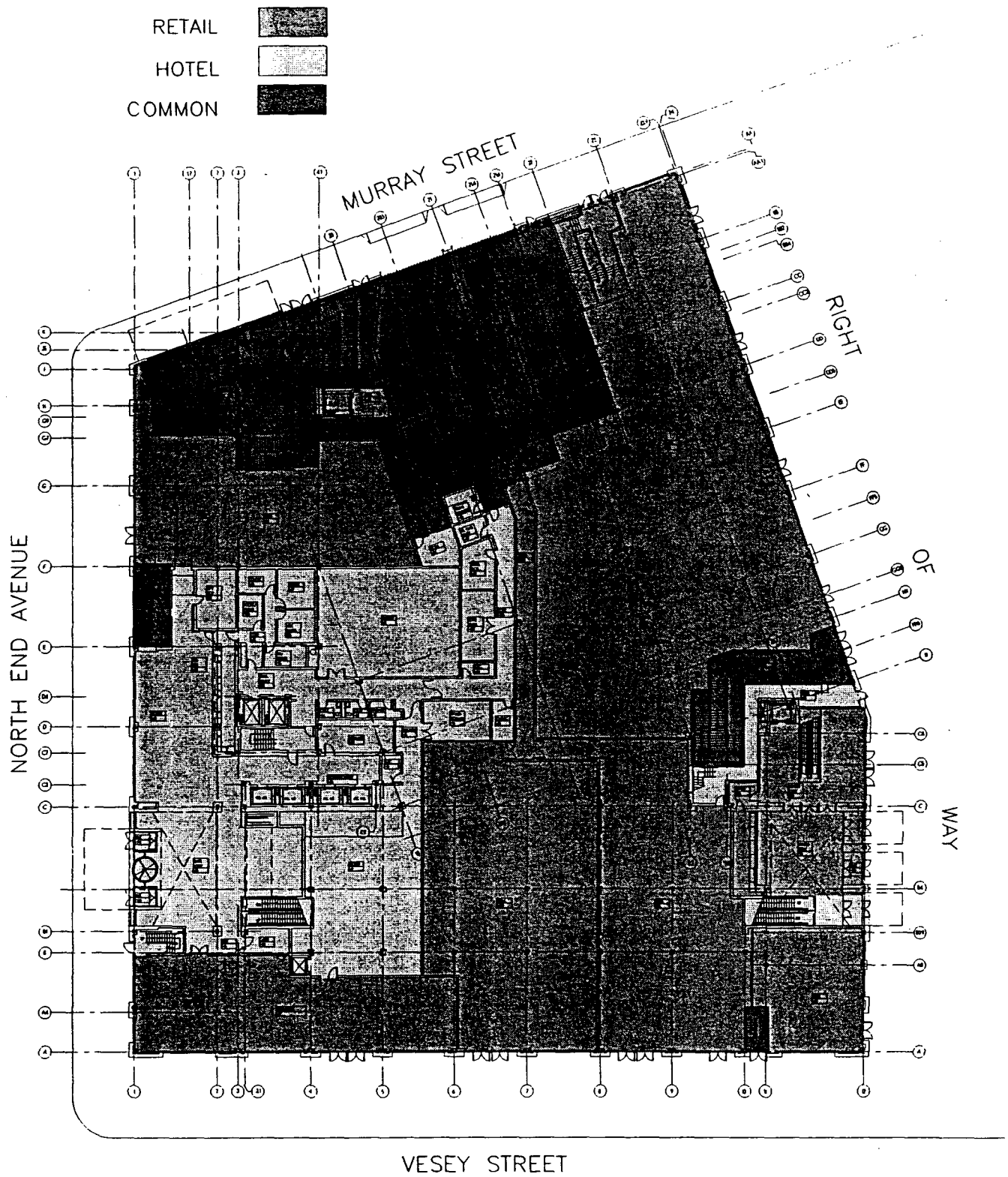
2. THENCE South 88 degrees 07 minutes 10 seconds East 269.00 feet to a point in the easterly line of first above described premises;

3. THENCE South 1 degree 52 minutes 50 seconds West along the easterly line of the first above described premises 10.00 feet;

4. THENCE North 88 degrees 07 minutes 10 seconds West along the northerly line of Vesey Street, 269.00 feet to the point or place of BEGINNING.

EXHIBIT B

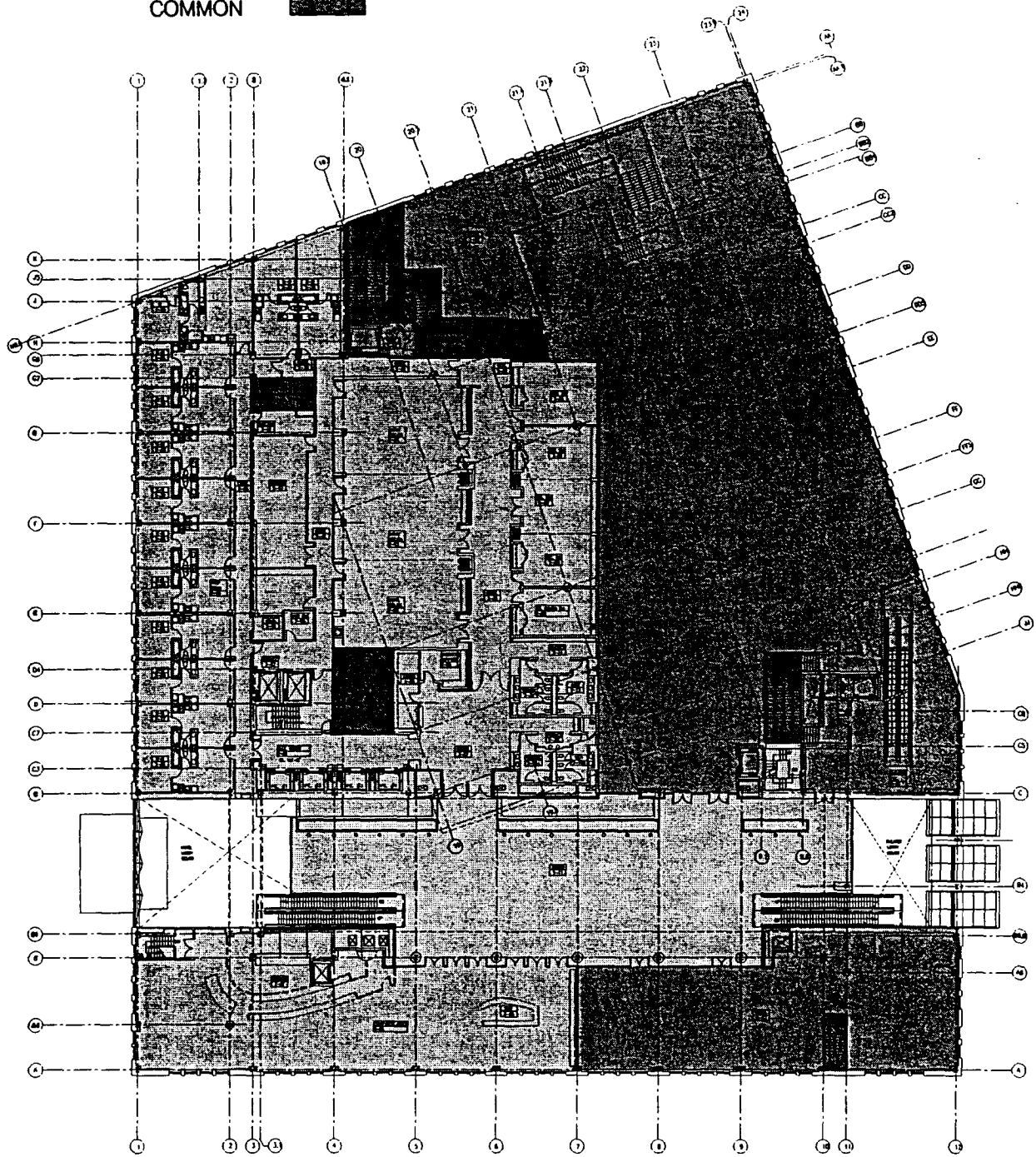
[DESCRIPTION OF PREMISES, HOTEL AND RETAIL COMPLEX]



FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

FIRST FLOOR - DESCRIPTION OF PREMISES

RETAIL
HOTEL
COMMON



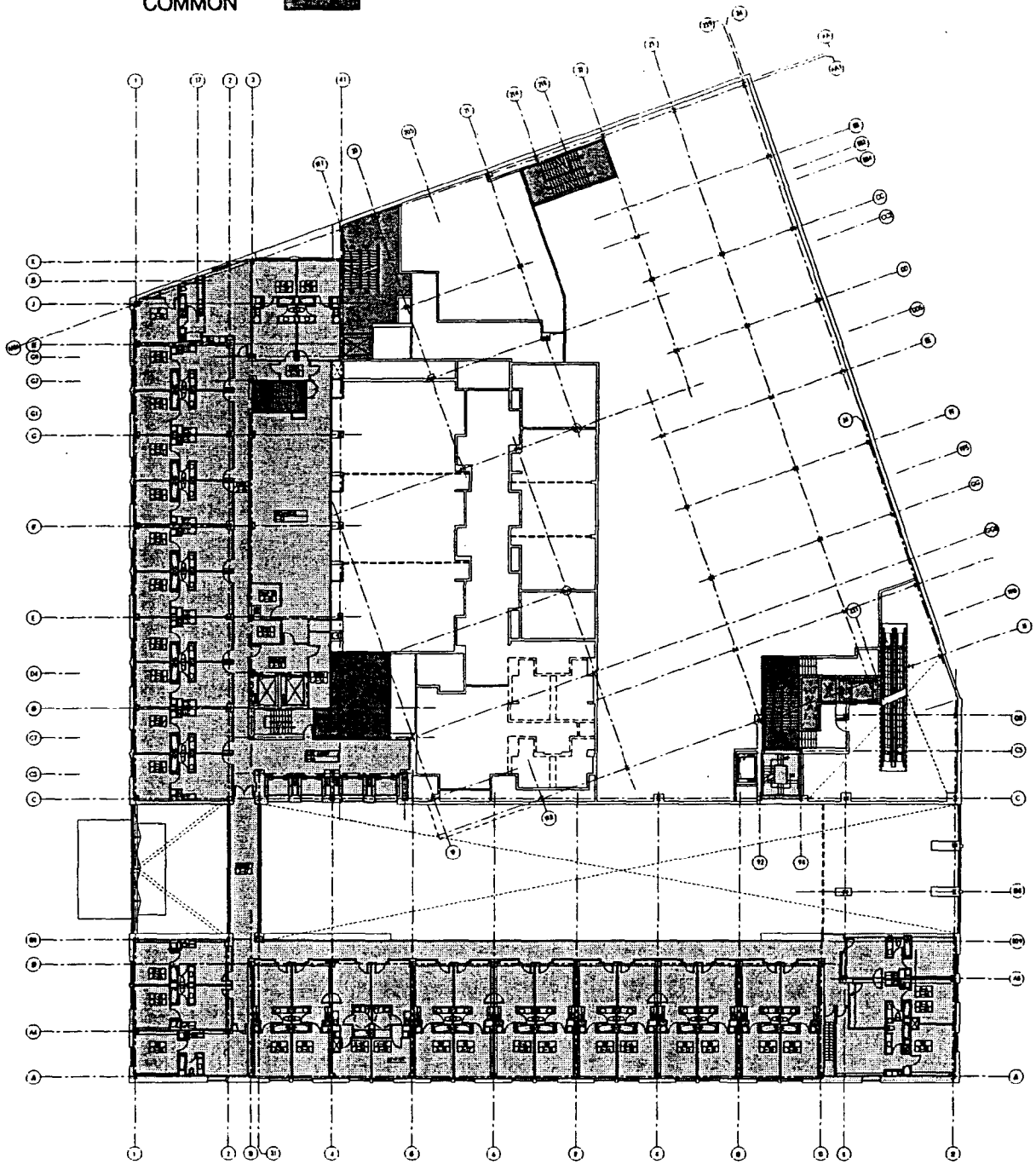
FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

SECOND FLOOR - DESCRIPTION OF PREMISES

RETAIL




HOTEL

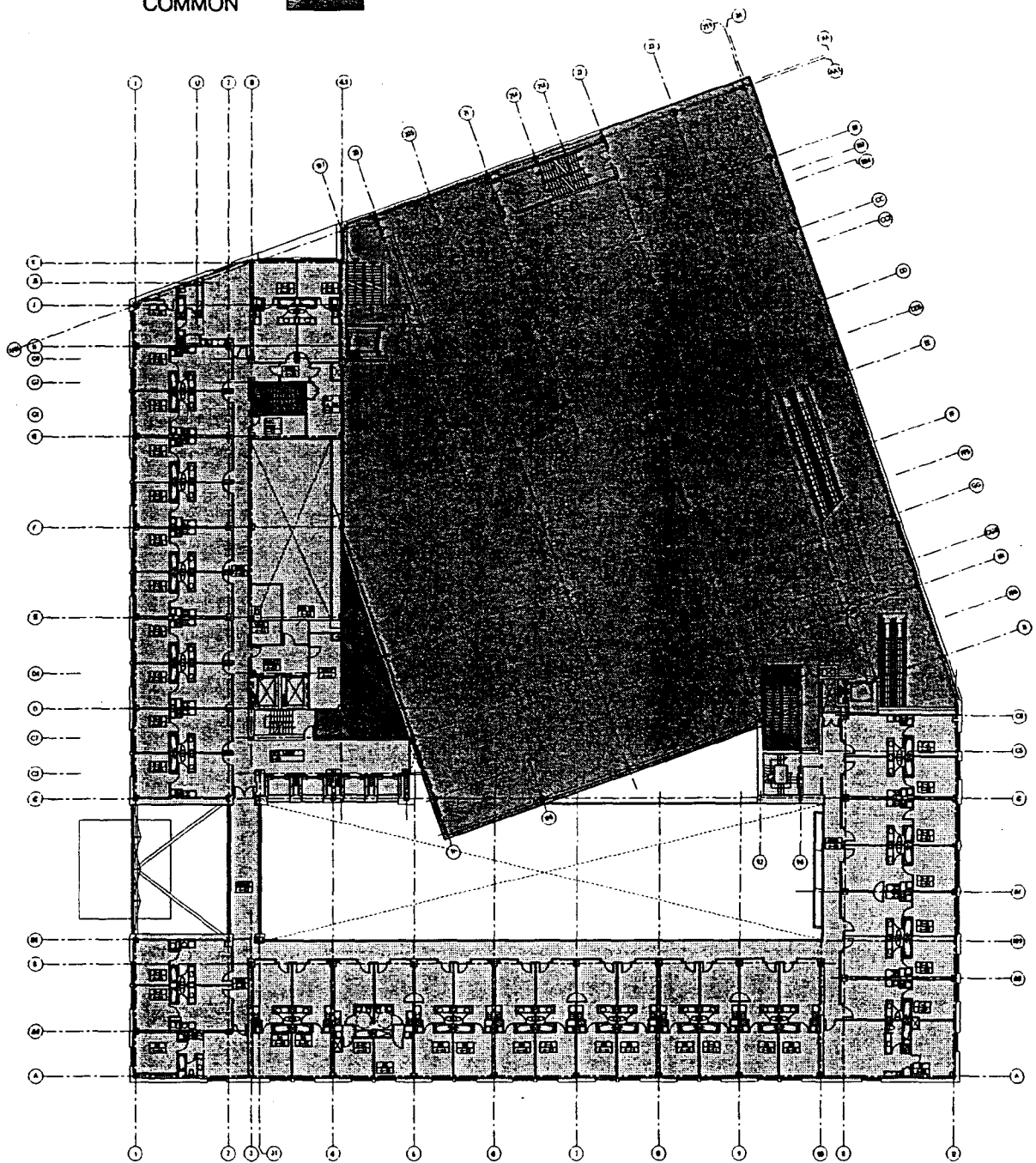
COMMON



FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

THIRD FLOOR - DESCRIPTION OF PREMISES

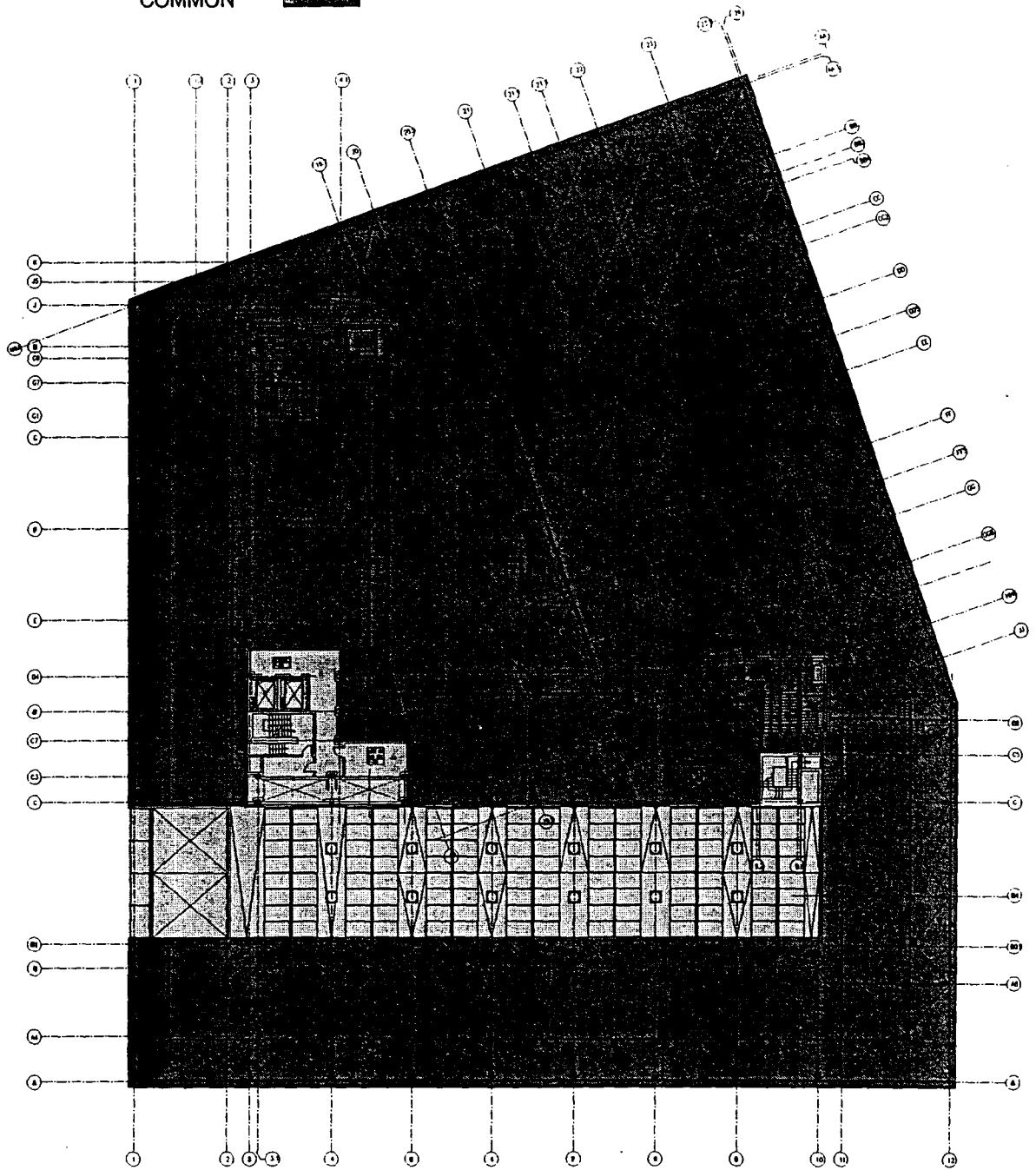
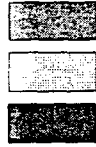
RETAIL 
HOTEL 
COMMON 



FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

FOURTH TO FOURTEENTH FLOOR - DESCRIPTION OF PREMISES

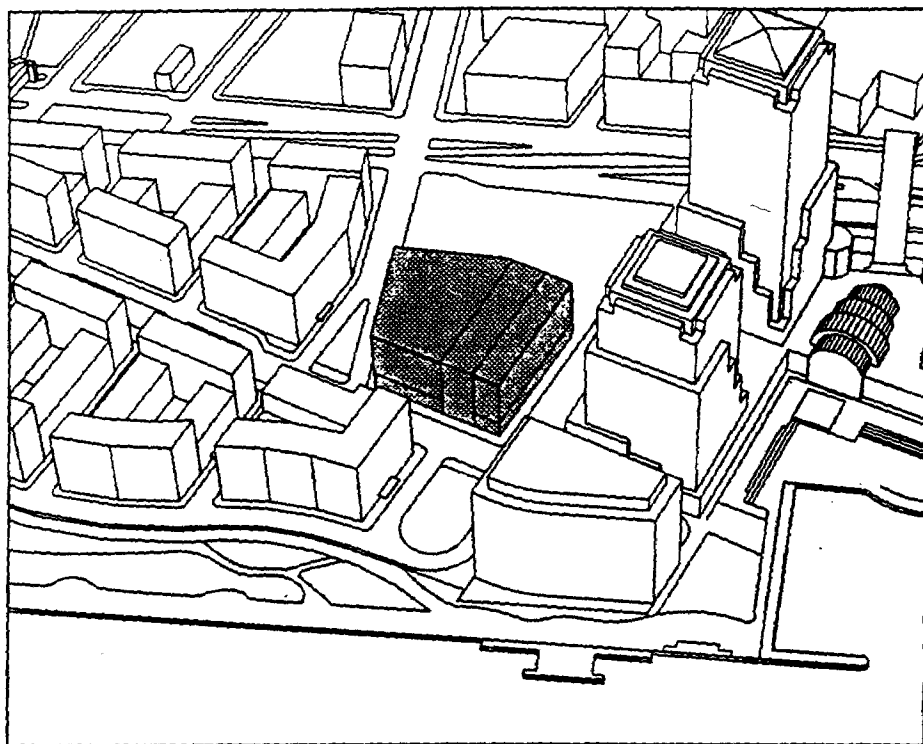
RETAIL
HOTEL
COMMON



FOREST CITY RATNER
EMBASSY SUITES AT BATTERY PARK CITY

MECHANICAL PENTHOUSE - DESCRIPTION OF PREMISES

EXHIBIT C
[DESIGN GUIDELINES]



BATTERY PARK CITY

Design Guidelines for Site 25

OCTOBER 1998

BATTERY PARK CITY AUTHORITY

POLSHEK AND PARTNERS ARCHITECTS

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INTRODUCTION

Site 25 is bounded by Vesey Street to the south, North End Avenue to the west, Murray Street to the north, and a new pedestrian right-of-way to the east. The site acts as transition zone between the World Financial Center to the south and the future North Residential Neighborhood to the north.

The Design Guidelines for Site 25 define the urban and architectural requirements for a building on this prominent development parcel. The Design Guidelines also provide an overview of the urban conditions and infrastructure surrounding the site.

A key objective of the Design Guidelines is to provide for the development of site 25 in a manner that complements the World Financial Center. Development on Site 25 shall be in compliance with the zoning requirements contained in the Special Battery Park City District and other applicable provisions of the New York City Zoning Resolution (collectively, the "Zoning") and the Declaration of Restrictions, as amended through May 18, 1995, among the Authority and certain tenants of the World Financial Center. In some instances the Design Guidelines are more restrictive than the Zoning or the Declaration of Restrictions and in those cases the more restrictive requirements must be followed.

Figures or descriptions in these Design Guidelines of other parcels and improvements on such parcels including, but not limited to, existing structures, potential buildings or bulk models, are for illustrative purposes only and shall not be binding on the Authority.

SITE AND CONTEXT

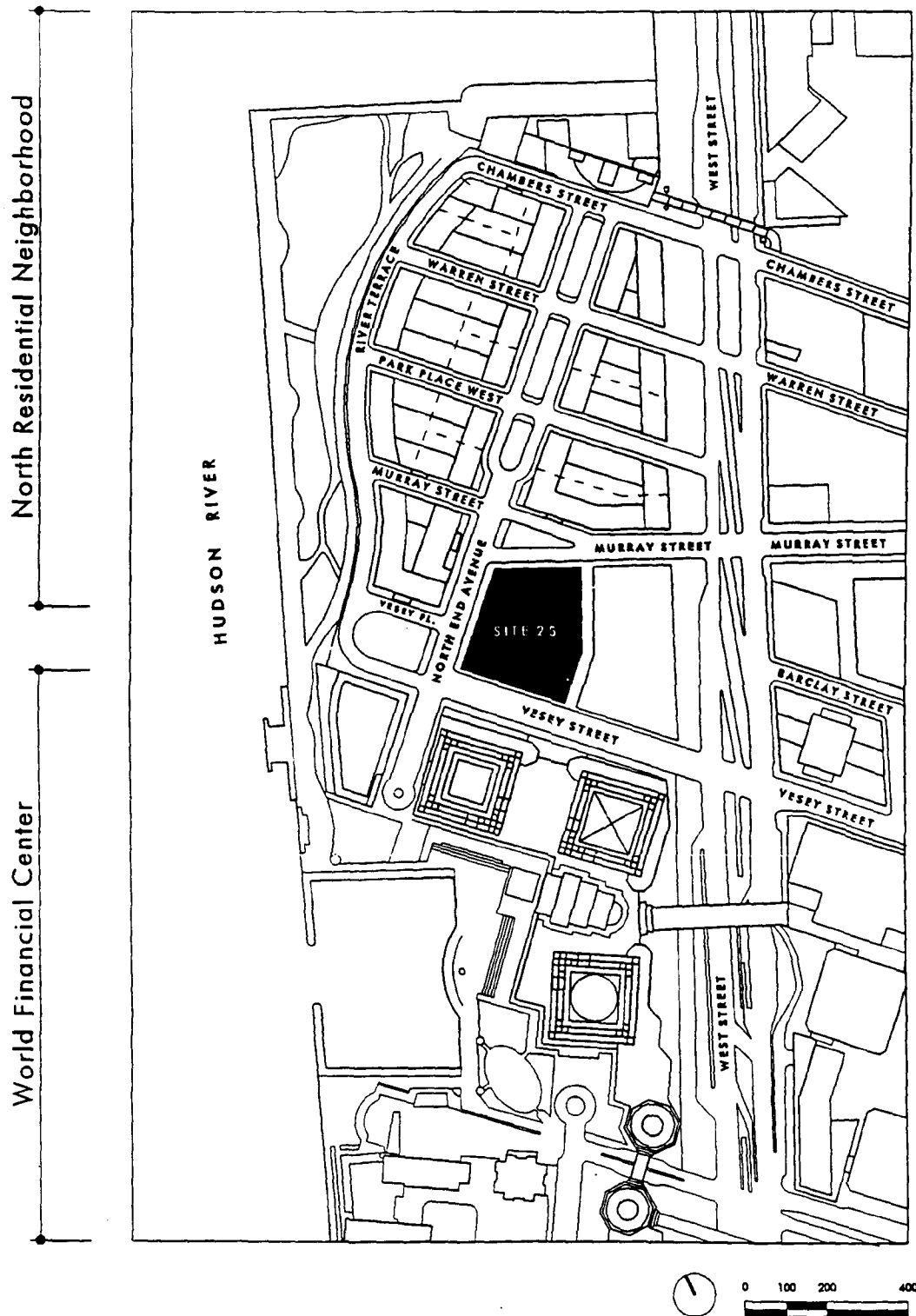


Fig.1: Site Plan

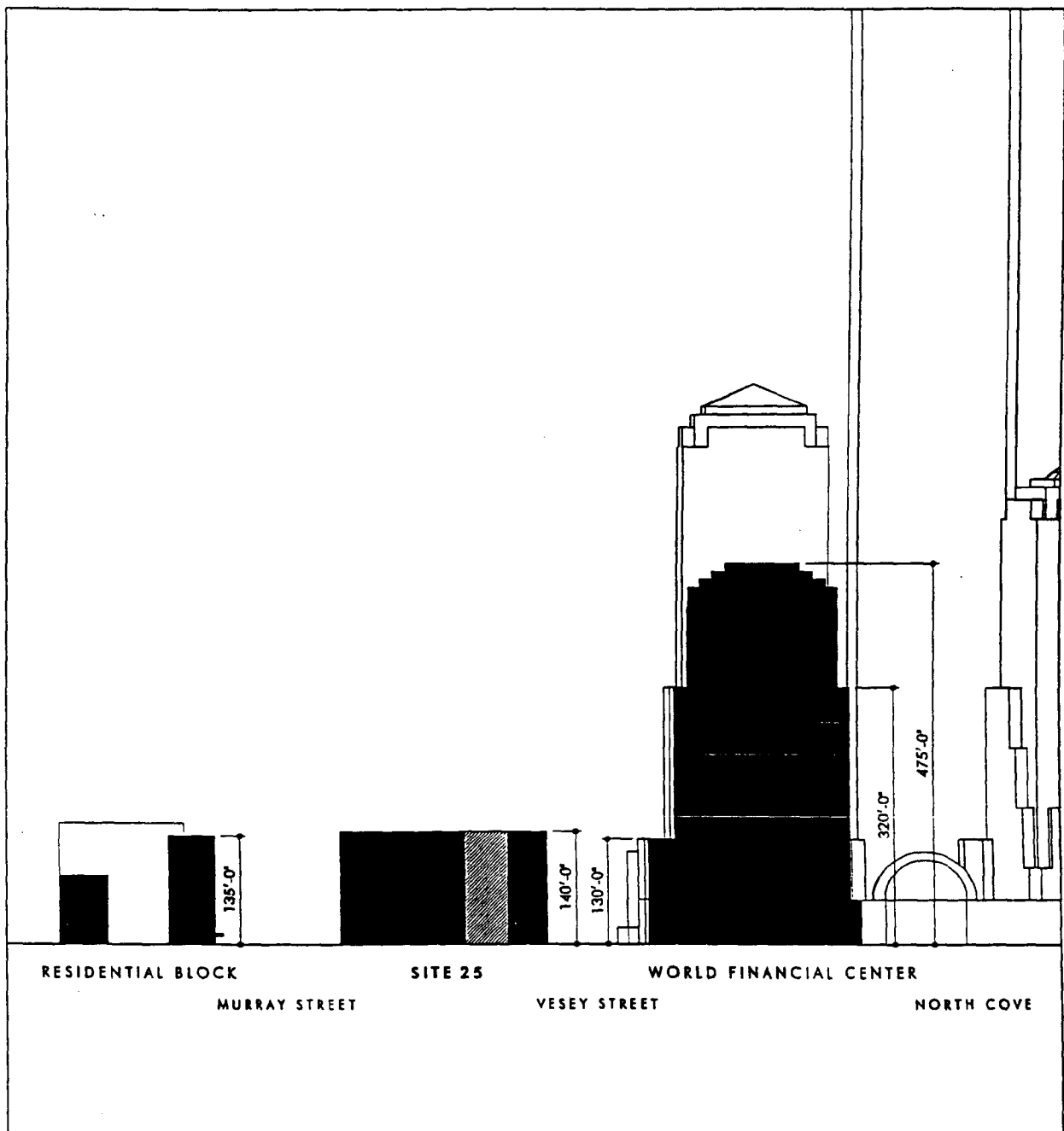
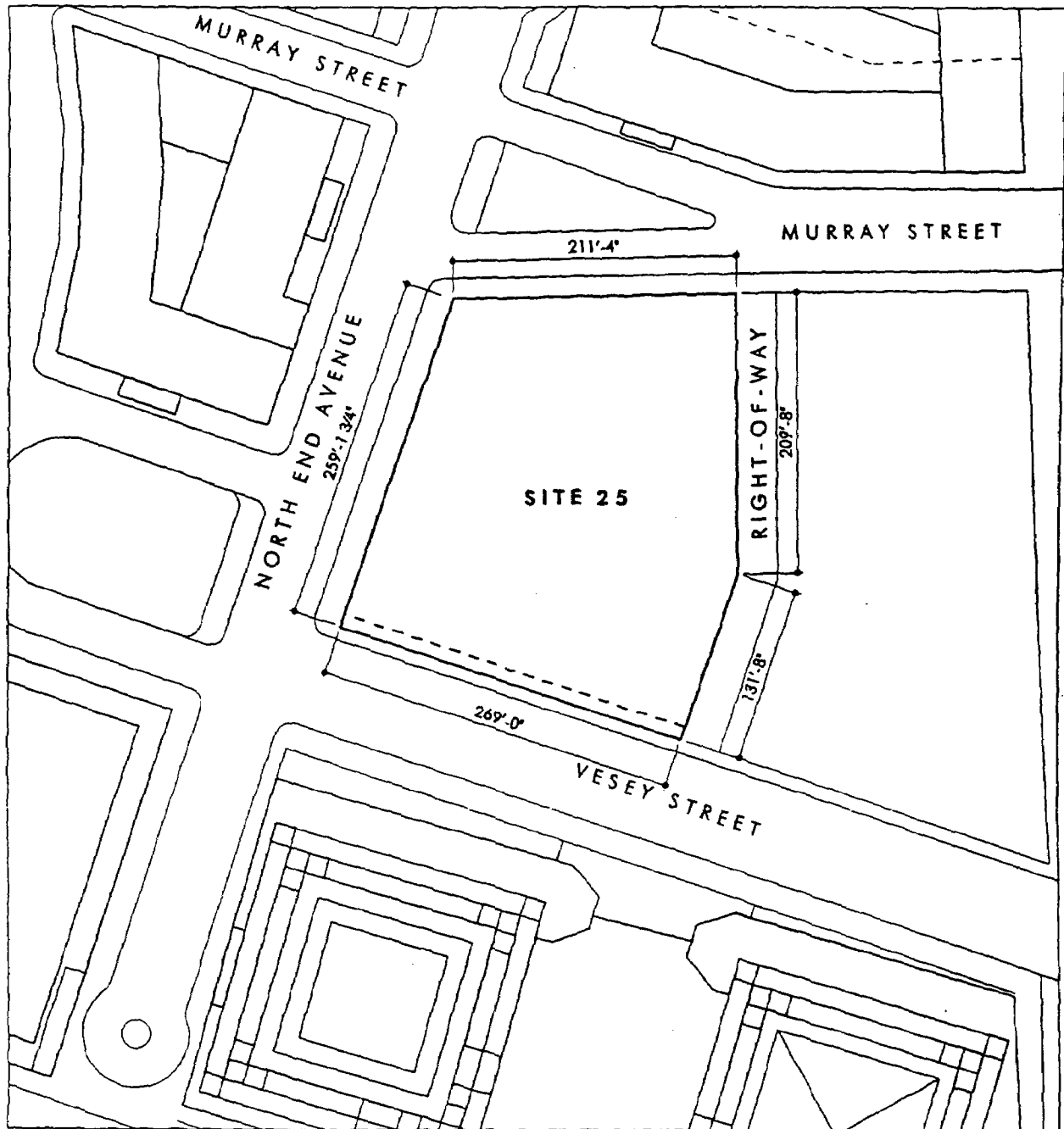


Fig.2: Site Section



Site 25 Lot Area = +/-74,717 Sq.Ft.



Note:
All dimensions are approximate.
Actual dimensions to be verified
by site survey

Fig. 3: Site Dimensions

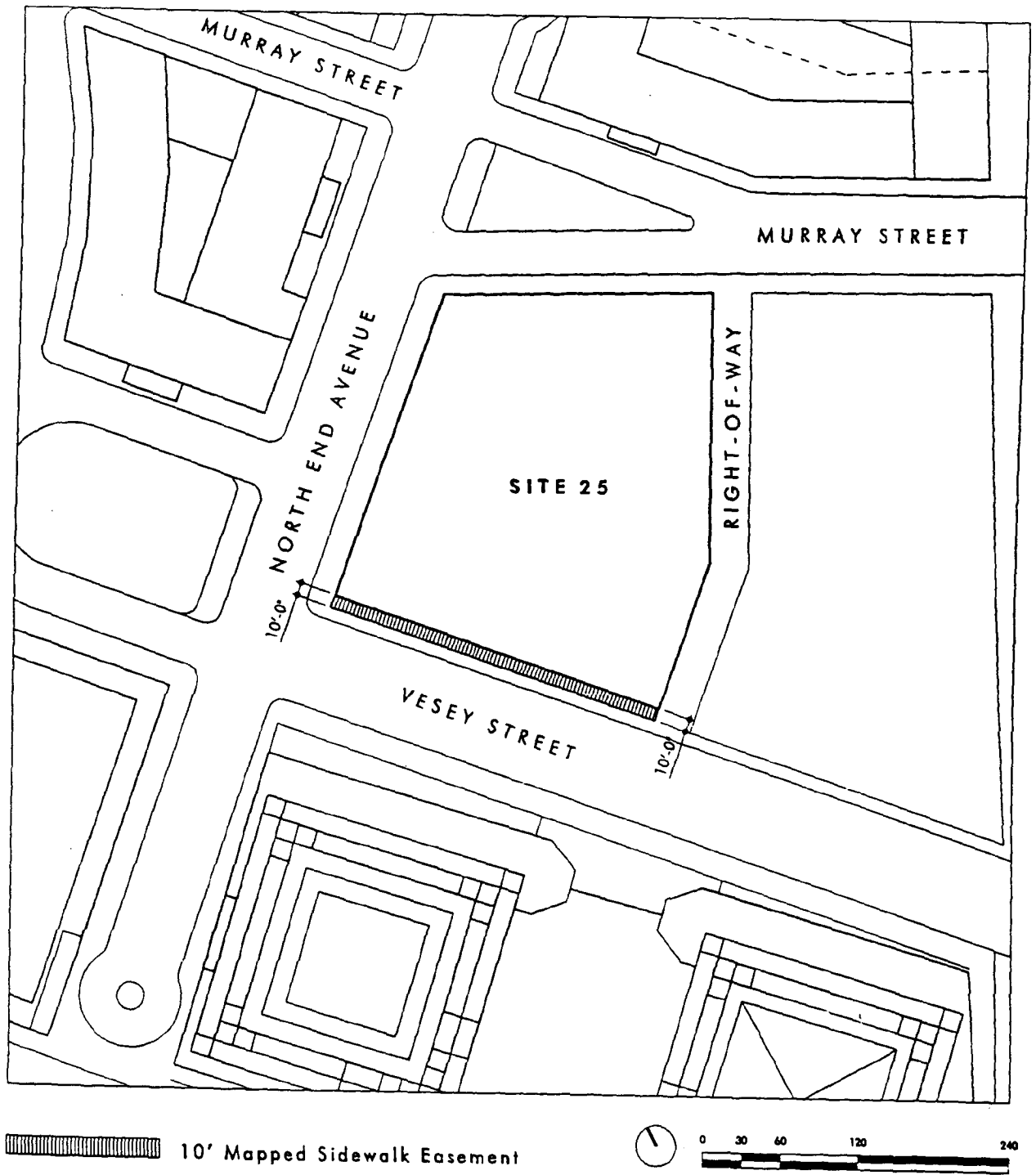
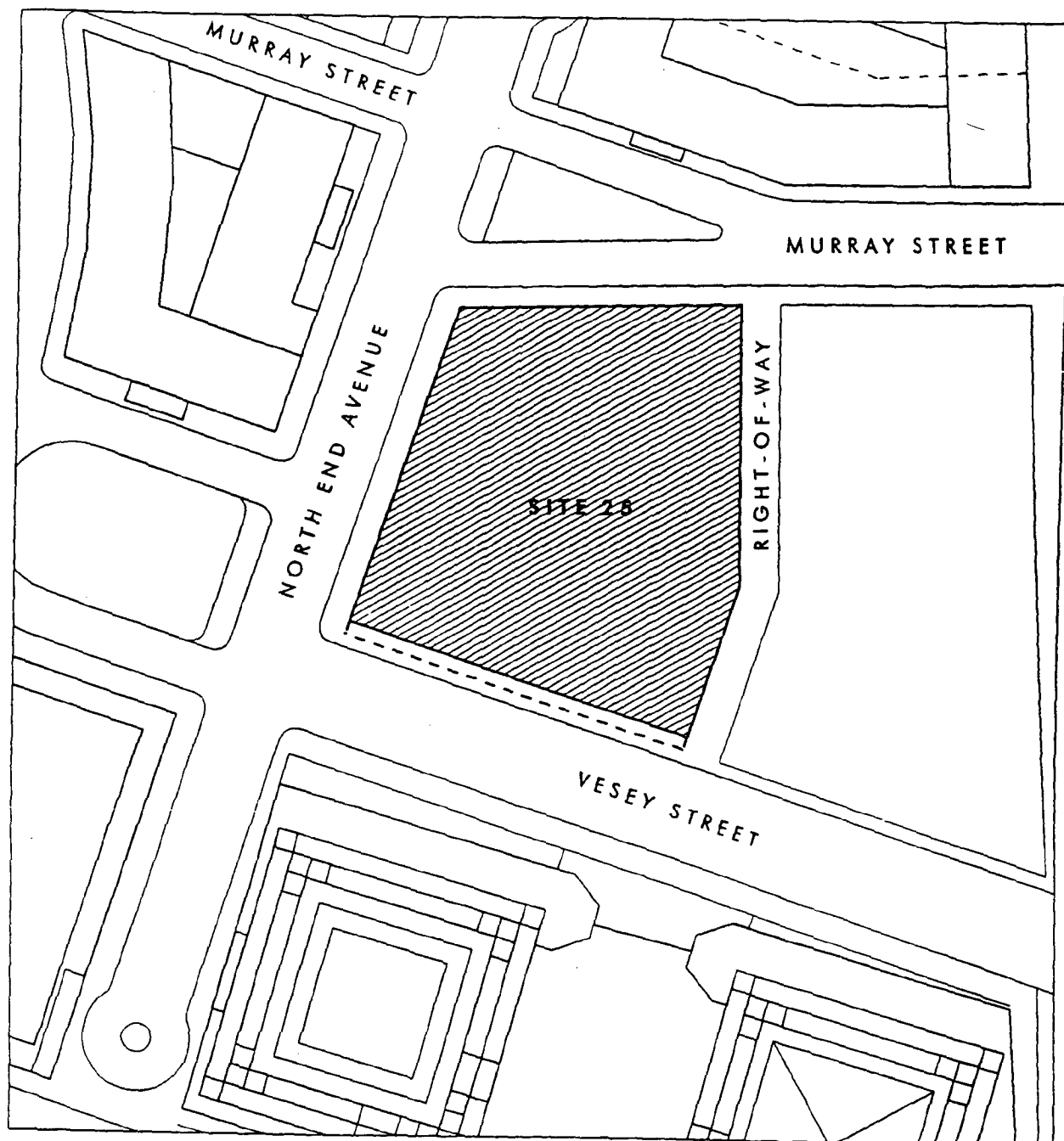


Fig.4: Site Easements



Site 25:
 Approximate Allowable Ground
 Floor Buildable Area = +/-72,027 Sq.Ft.



Fig.5: Buildable Area

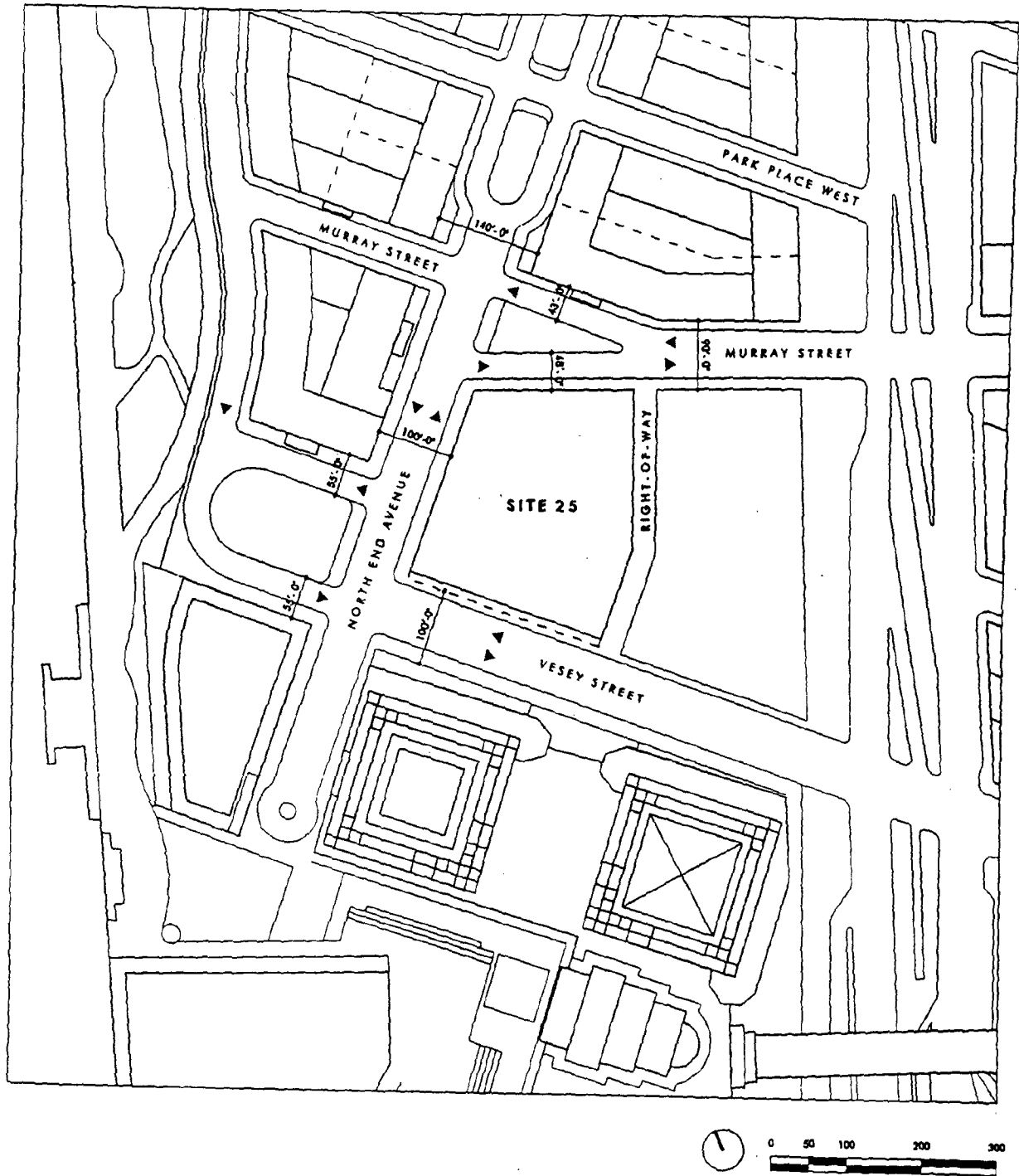
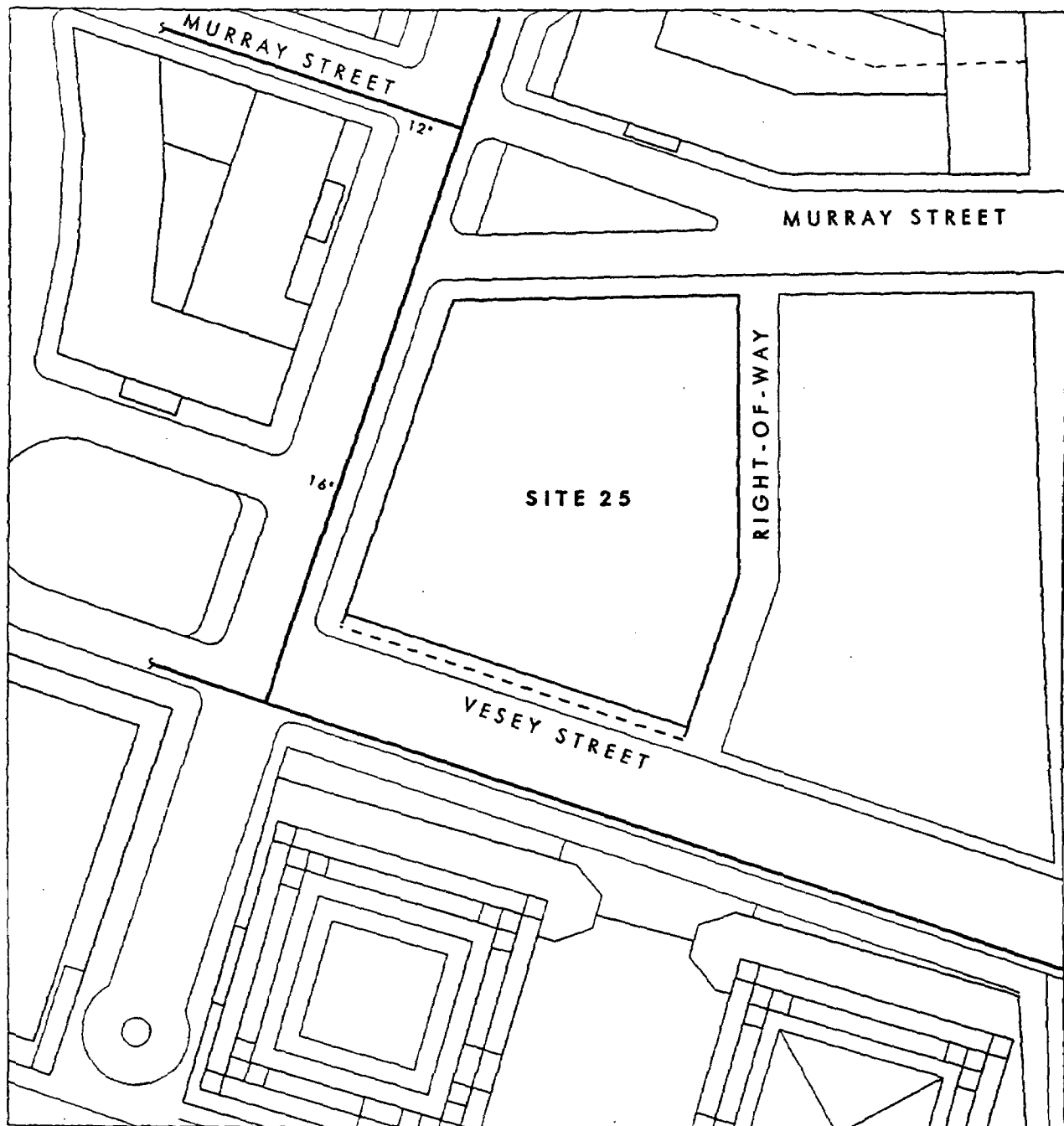


Fig.6: Street Widths



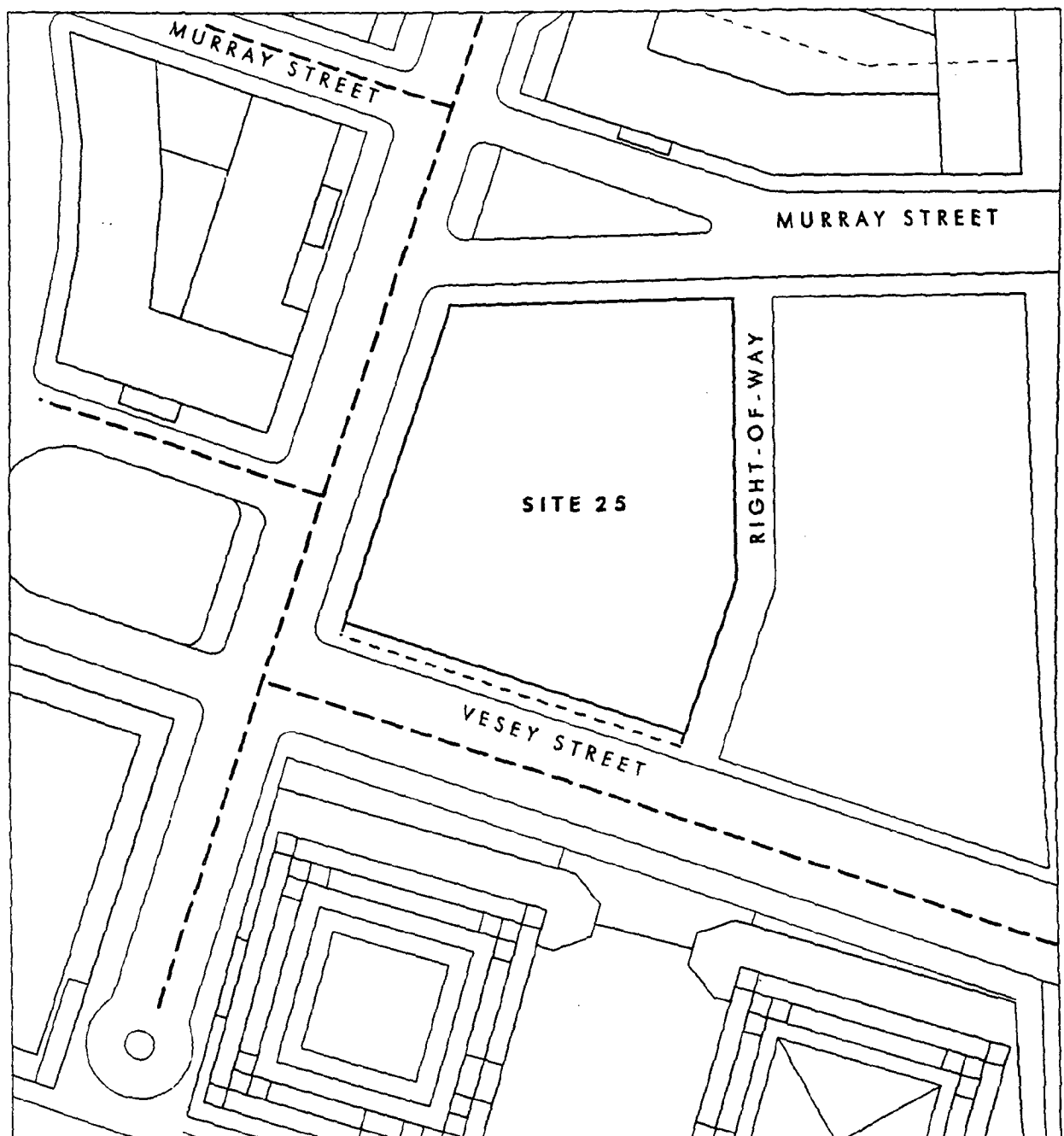
Existing Gas Main



Fig.7a: Gas

2.7a

Battery Park City, Site 25 Guidelines



----- Existing Telephone Ducts

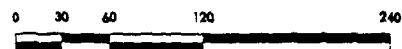


Fig.7b: ERS & Telephone Service

2.7b

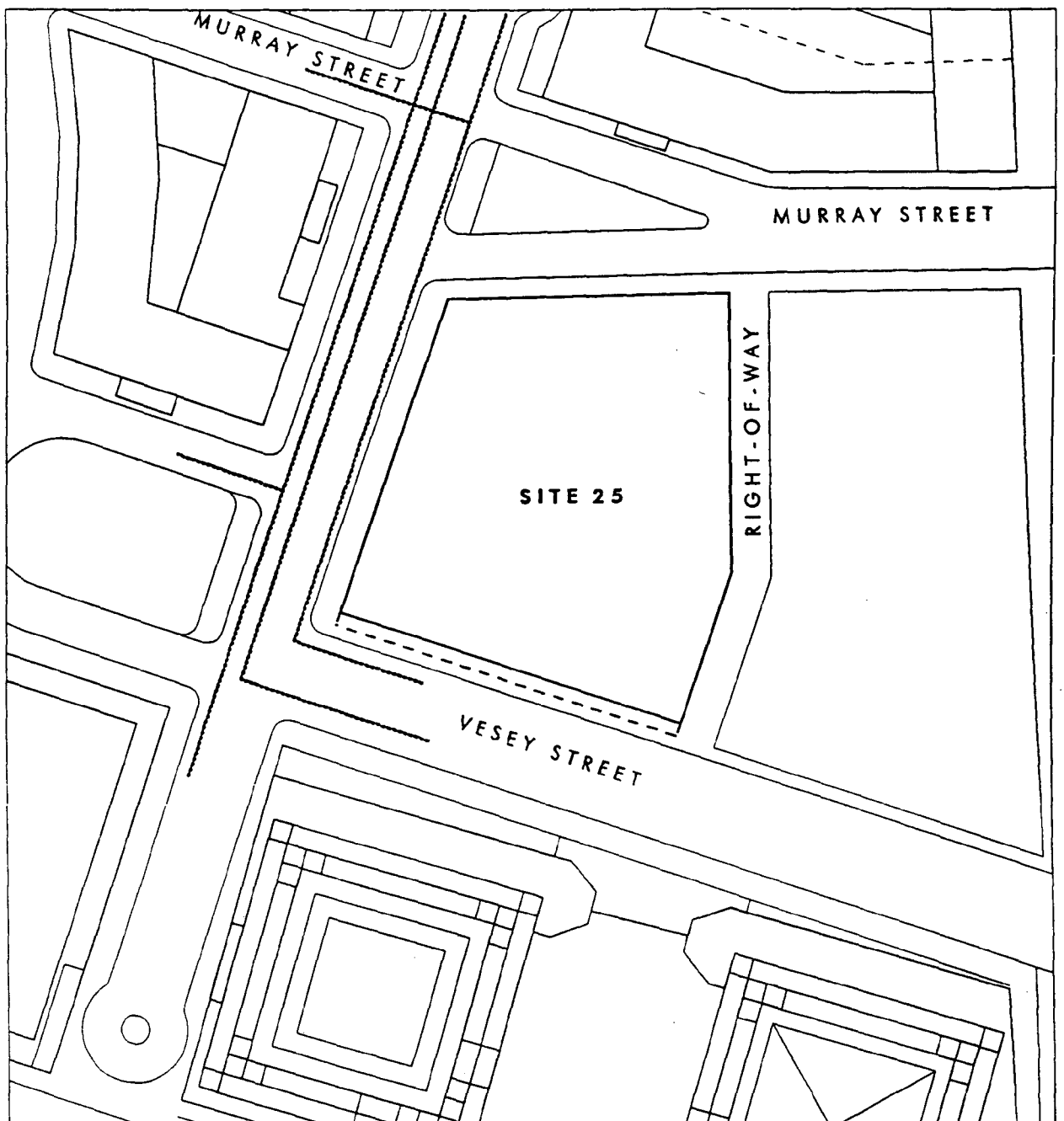
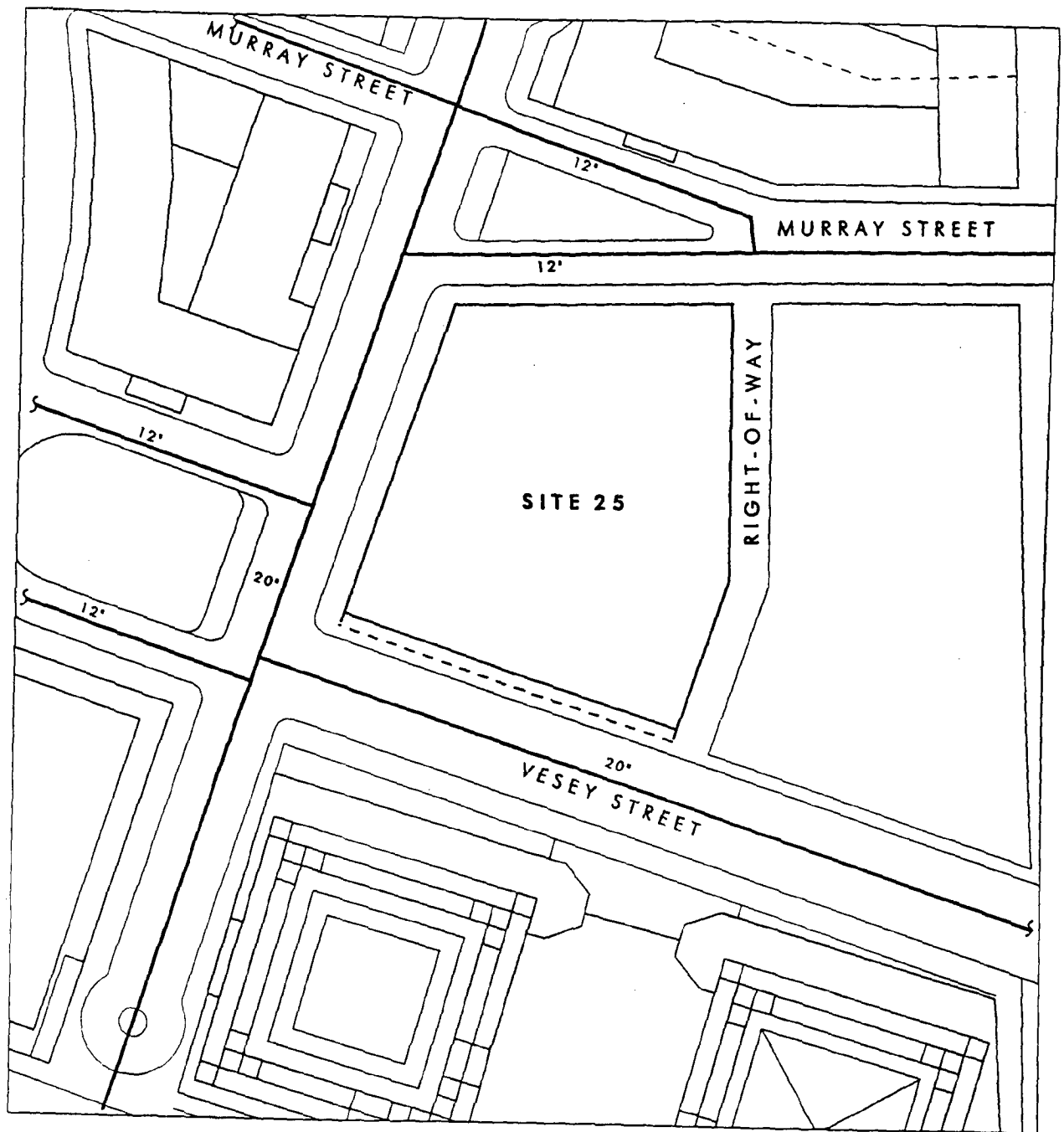


Fig.7c: Electrical Service



— Existing Water Main

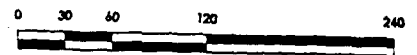


Fig.8a: Water System

2.8a

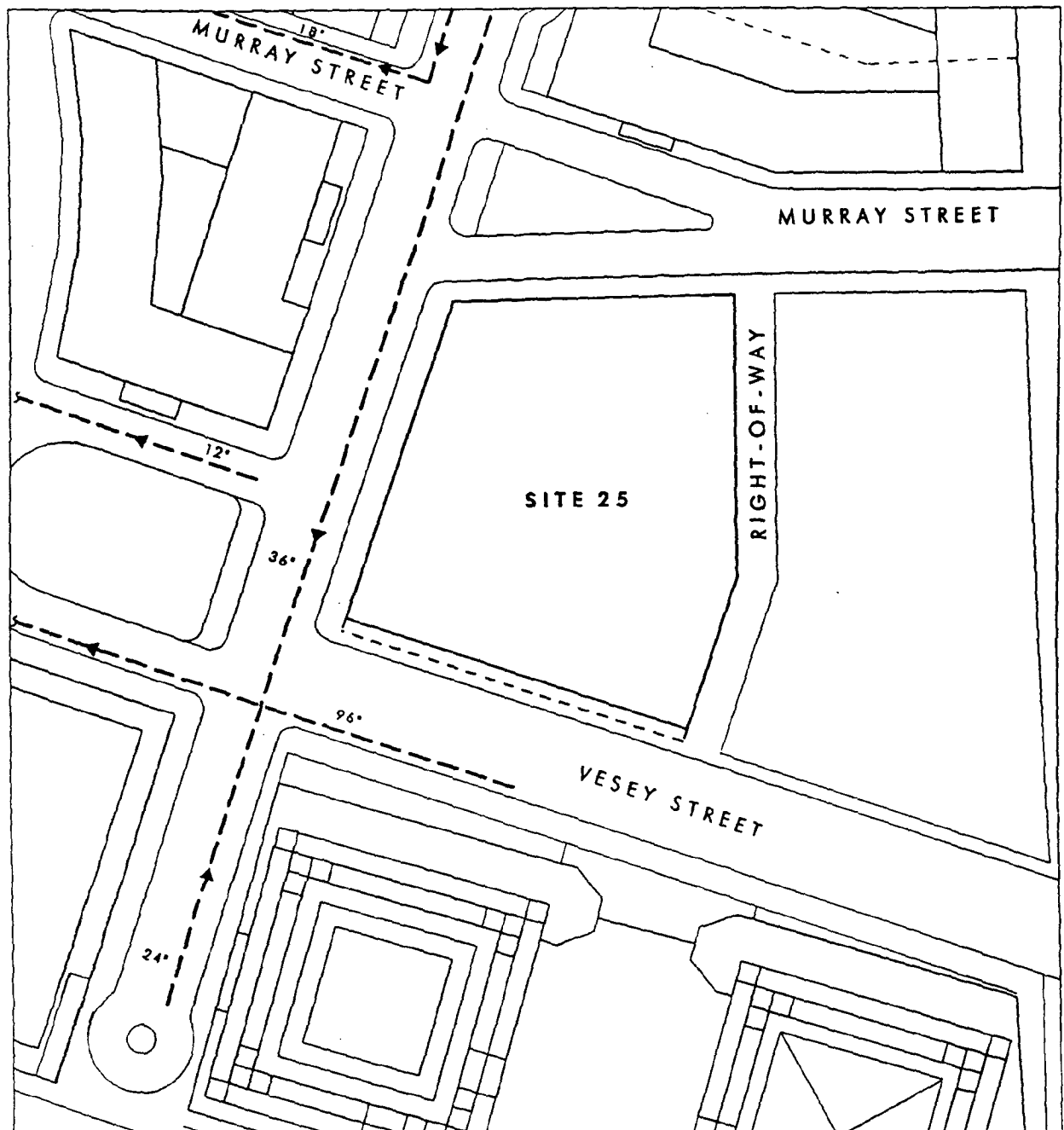


Fig.8b: Storm Sewer

2.8b

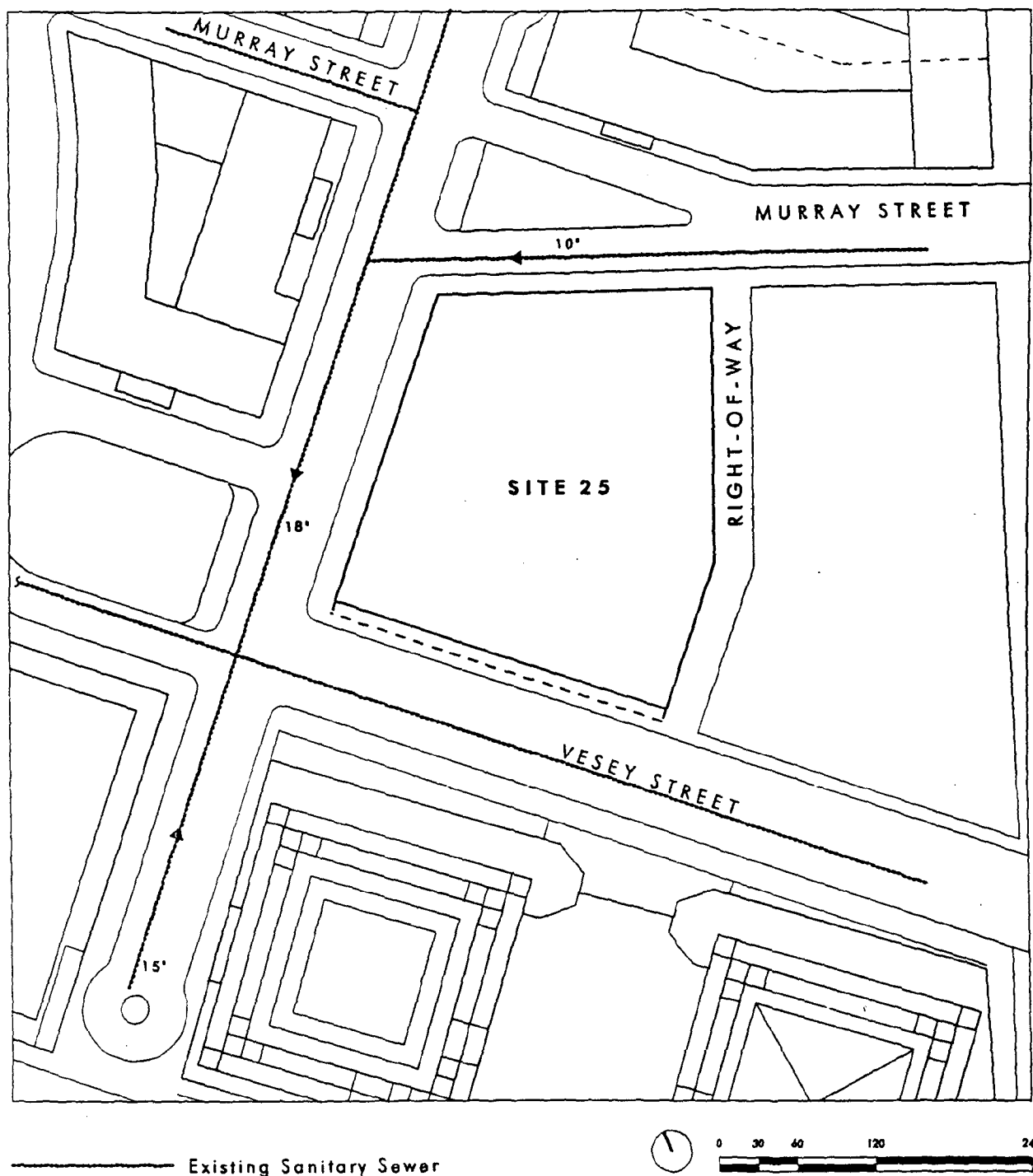


Fig.8c: Sewer System

2.8c

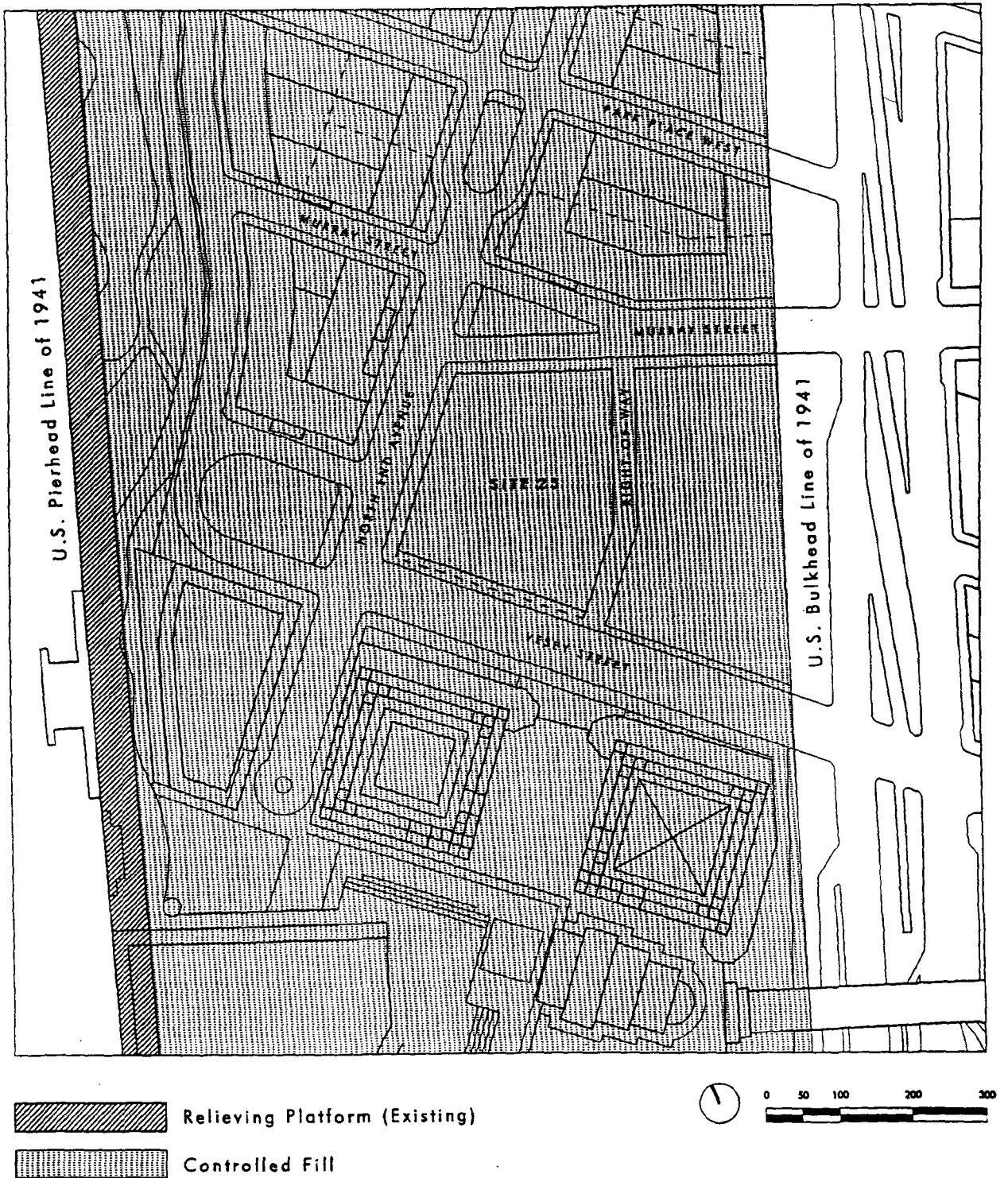


Fig.9: Soil Conditions.

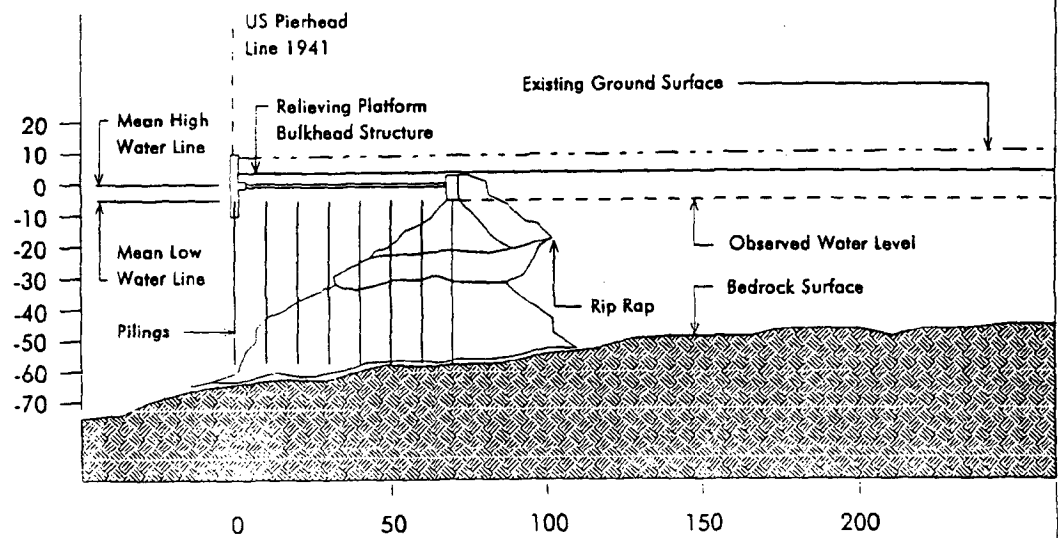
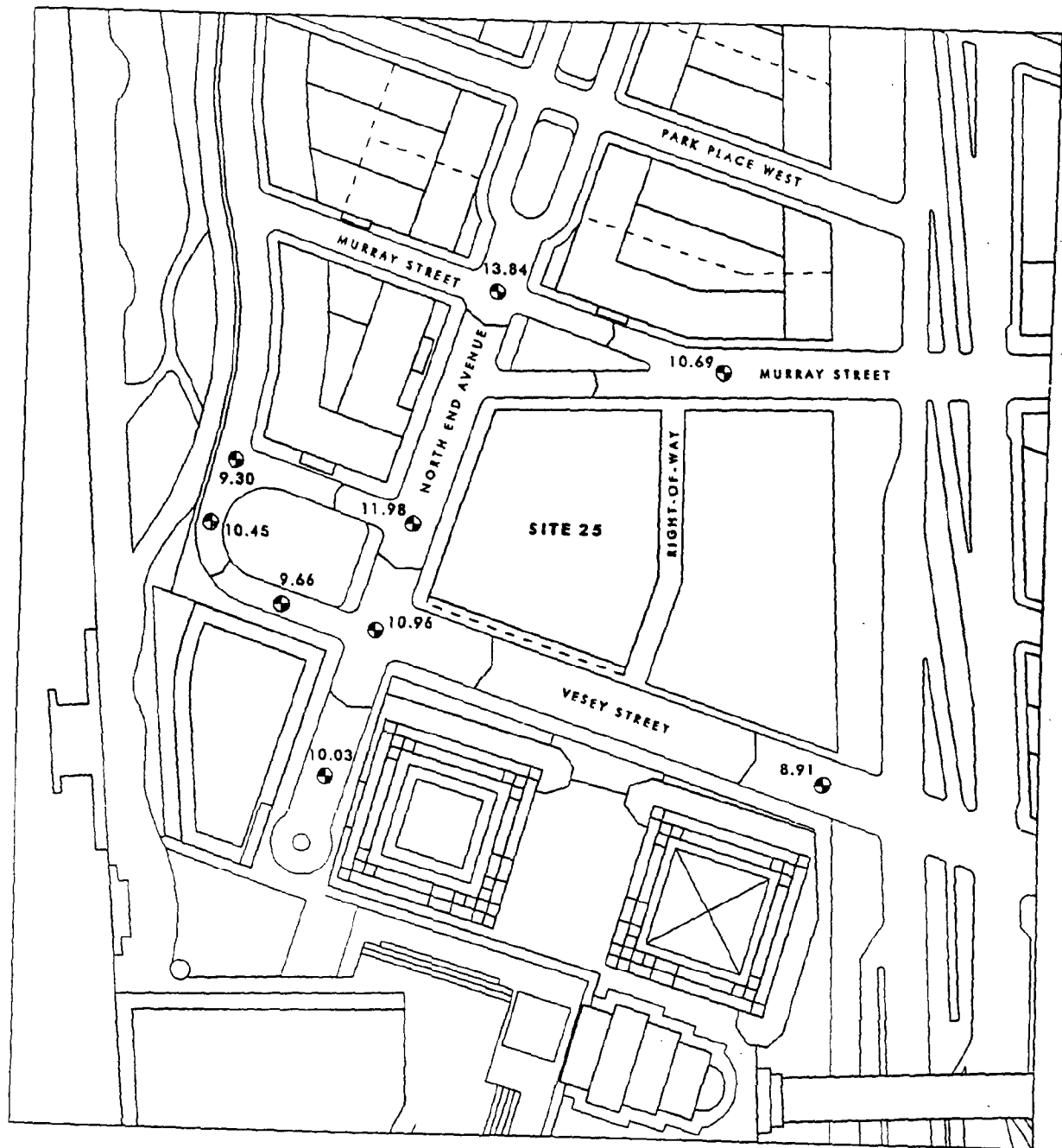


Fig.10: Section of Soil Conditions (Approximate)



Note:
All elevations to be
verified by site survey

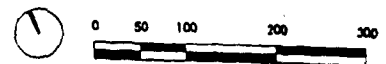


Fig.11: Street Grading

URBAN DESIGN REQUIREMENTS

URBAN DESIGN GUIDELINES: SITE 25

Site Size and Floor Area

Site 25 Maximum Floor Area = 562,000 Sq. Ft. exclusive of Floor Area used for the Atrium at the second floor. Floor Area is as defined in the Zoning.
Maximum Buildable Site Area = 72,027 Sq. Ft.

Uses

The building which is to be constructed on Site 25 must contain hotel and theater uses and may contain retail uses. No office space is permitted (other than as accessory to permitted uses) without the express written permission of the Authority. The predominant use for the site is a transient hotel not to exceed a Floor Area of 360,000 square feet along Vesey Street and North End Avenue. Ground level uses that have public access (retail, restaurants, health clubs, etc.) are encouraged and should front along North End Avenue, Murray Street, and Vesey Street. The hotel lobby must front on North End Avenue and the theater lobby must front on the Right-of-Way (as defined in *Pedestrian Circulation and Outdoor Seating*).

Any hotel dining areas in the atrium and health clubs must be open to public use with access to facilities contained therein comparable to that for hotel guests. Appropriate fees may be charged for such public access.

Second floor and third floor uses may include all the ground floor uses plus hotel rooms, theaters and conference facilities. Except for loading docks, utility rooms and other uses specifically permitted along the building frontage by these Design Guidelines, back-of-house services may be located only in interior areas with the following exceptions: Accessory offices may be located along the perimeter of the building on the first floor along the Right-of-Way for no more than an equivalent width of one bay and on the second floor on any facade for no more than an equivalent width of the lesser of two bays or four windows.

Floors above the third floor may only contain hotel or theater uses.

The theater shall be located at the northeast portion of the site. The total number of theater seats may not exceed 4,500. The theater operator will be required to develop a program to permit occasional use of theater space for community meetings and, for a reasonable fee, for business meetings during non-peak periods.

Retail uses (not including theaters but including the public health club) shall not exceed 75,000 square feet of Floor Area, except that an additional 10,000 square feet of Floor Area may be added for retail mezzanine space, subject to the maximum Floor Area for the Site stated above. Retail uses must complement existing retail in the World Financial Center and interior finishes and display areas must be of a quality consistent with the World Financial Center. Discount clubs or warehouse stores are not permitted. Retail that would attract a large volume of vehicular traffic (such as Home Depot) is not permitted. Discount, chain department stores (such as Wal-Mart) are not permitted unless tenants agree to undertake special measures to upgrade interior finishes and all display areas to a level of quality consistent with the World Financial Center.

All retail tenants occupying areas greater than 25,000 square feet must be approved by the Authority. In the event Authority approval is required, an initial response to a request for approval will be given within 10 business days. Such

URBAN DESIGN GUIDELINES: SITE 25

initial response may include a request for additional information. A final decision by the Authority will be given within 15 business days after receipt of all information requested by the Authority.

Above ground parking is not permitted.

All development rights to Floor Area not used for the initial construction of the project in accordance with these Design Guidelines are retained by the Authority.

Use of the 10 foot mapped sidewalk easement indicated on Fig. 4 shall be as described in *Pedestrian Circulation and Outdoor Seating* below.

Atrium and Ground Level Access

Entrances

The primary hotel entry is located on North End Avenue, and generally aligned with the northern arm of Vesey Place, which encircles the Vesey Street Turnaround. The theater entrance must be located on the Right-of-Way (Fig. 12). There must be a ground floor public lobby area of the hotel with an area of approximately 4,500 square feet. There must be a ground floor theater lobby area with an area of approximately 1,700 square feet. The hotel lobby and the theater lobby must be aligned with the atrium and all three elements must be designed as one unified space. No additional walls, partitions or roll-down security grates may be added in this space without prior approval by the Authority. All ground floor retail must have entrances directly onto the street or the Right-of-Way.

Atrium

An atrium must be included which extends from the entrance at North End Avenue to the Right-of-Way for a minimum width of approximately 40 feet, connecting the hotel lobby with the theater lobby (Fig. 12). The atrium must be a clear, unobstructed space with a floor at the second story within 36 feet of the street level, except for the hotel and theater lobbies, which must have a floor at the street level. The atrium space including the hotel lobby must extend for the full height of the building except that at the theater lobby, the atrium space may be limited to the height of the fourth floor of the hotel.

Pedestrian Circulation and Outdoor Seating

Pedestrian circulation around the site is illustrated in Fig. 12. Any special or distinctive sidewalk paving must be approved by the Authority. The Authority will construct and maintain or cause to be constructed and maintained a pedestrian right-of-way of not less than 30 feet in width (the "Right-of-Way"), except that the Right-of-Way may be reduced to the 20 feet wide area adjacent to Site 25 which shall be a pedestrian/vehicle-free zone (except for emergency or standard service and maintenance) but in no event shall the entire 30 feet width be obstructed by a building or other structure. The Right-of-Way shall be designed with trees and other plant material, lighting fixtures and other details which complement the World Financial Center and Battery Park City open spaces. The design of the Right-of-Way will be submitted to the developer for review and comment. After opening of the theater, access to entrances located on the Right-of-Way must be maintained by the Authority during the construction of the Right-of-Way and any development on Site 26.

URBAN DESIGN GUIDELINES: SITE 25

Use of the 10 foot mapped sidewalk easement indicated on Fig. 4 for any purpose other than a public pedestrian right of way, except as provided in this paragraph, shall require the express written permission of the Authority. The Authority grants permission to use certain portions of the sidewalk easement and certain portions of the Right-of-Way as indicated herein (the "Optional Easement Seating Area" and the "Optional Right-of-Way Seating Area", respectively) for seating in connection with an eating or drinking establishment subject to (i) the approval of the Authority for all outdoor furniture, signage, railings and spacing from tree pits, doors or lightposts, (ii) any applicable City approvals, requirements and standards for sidewalk cafes, (iii) any applicable approvals by tenants of the Authority and (iv) other conditions set forth below. For the Optional Easement Seating Area, such seating shall be limited to a depth of 8 feet from the building face except that a depth of up to 10 feet may be permitted until development of the parcel to the east of the Right-of-Way upon approval of the Authority.

If outdoor seating is placed in the Optional Right-of-Way Seating Area, such seating shall be limited to (x) an area not to exceed a depth of 8 feet from the building face on the Right-of-Way for a length of 45 feet from the northern boundary of the mapped sidewalk easement indicated on Fig. 4, (y) a seating area to be approved by the Authority to accommodate tables and chairs for approximately 50 customers for that portion of the Right-of-Way within 170 feet of Murray Street and (z) a period ending at the earlier of the fifth anniversary of the opening of the eating or drinking establishment associated with such seating, or the sixth anniversary of the opening of the hotel. In addition, if outdoor seating is placed in the area described in clause (y) of the preceding sentence, additional clearly separate public (non-patron) tables and seating for a minimum of 25% of the customer seating shall be provided in areas approved by the Authority, and shall be maintained, secured and stored by the eating or drinking establishment providing the customer seating. All outdoor seating shall be unenclosed.

Notwithstanding the permission granted above by the Authority with respect to the Optional Right-of-Way Seating Area, such permission may be revoked at any time if the Authority begins development of the parcel to the east of the Right-of-Way. In addition, after the opening of any outdoor seating in the Optional Right-of-Way Seating Area in connection with eating or drinking establishments, if the Authority closes such seating areas for the purpose of construction, repair or reconstruction of the Right-of-Way, the Authority will consult with the operators of such establishments and will make available alternative seating areas and/or assume reasonable additional construction or staging costs, if necessary, in order to minimize interference with such eating or drinking establishments.

Building Servicing

Except for fully-enclosed loading docks which shall be located on Murray Street, back-of-house service uses may not front on or be visible from streets or the Right-of-Way but may be located in interior areas of the ground floor. Utility rooms for electric must be located along Murray Street. A gas and water utility room may be located on North End Avenue. All utility rooms shall be the minimum size permitted by the respective utility companies. Electrical service equipment must be configured and installed consistent with utility company specifications required for equipment to be owned and maintained by such utility company. Emergency exits may open onto all streets and the Right-of-Way or as approved by the Authority.

URBAN DESIGN GUIDELINES: SITE 25

Utility rooms shall be located behind store fronts and shall be of a minimum size as approved by the utility company.

Curb Cuts and Loading Docks

All building loading and/or parking entries and curb cuts must be located along Murray Street, within the zone shown in Fig. 13. Loading docks must be fully enclosed within the buildings. No single loading entry bay shall have a width at the masonry opening in the streetwall greater than 25 feet. There shall be no more than 6 loading docks for the project. The aggregate width of the curb cuts may not exceed 50 feet.

Building Configuration

Streetwalls and Heights

North End Avenue:

Streetwall is a maximum of 140 ft. high, a minimum of 130 ft. high, and is predominantly coincident with the lot line (Fig. 14).

Vesey Street:

Streetwall is a maximum of 140 ft. high, a minimum of 130 ft. high, and set back 10 ft. from the lot line to allow for the mapped sidewalk easement (Fig. 14).

Murray Street:

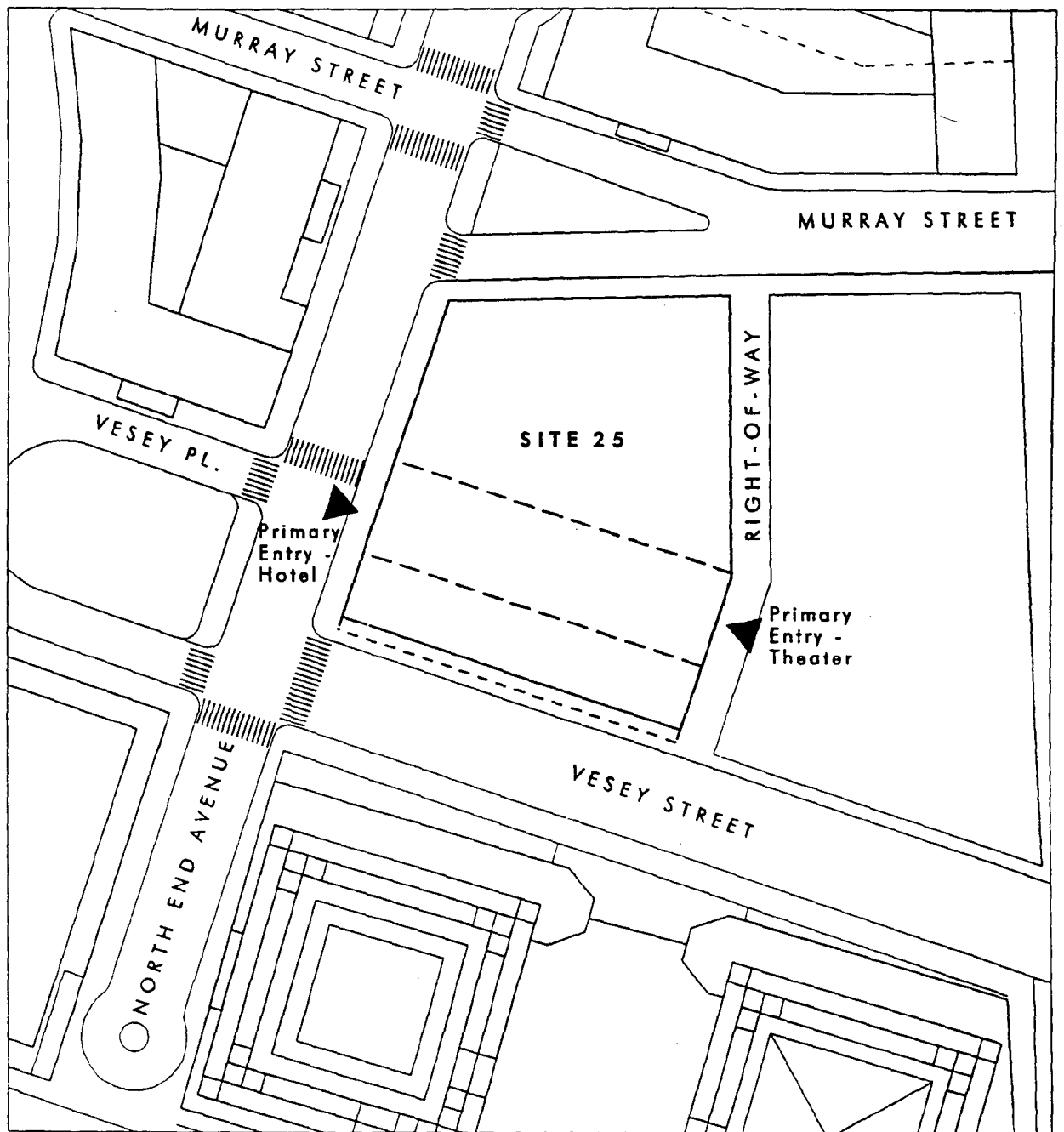
Streetwall is predominantly coincident with the lot line, a maximum of 140 ft. high and a minimum of 130 ft. high (Fig. 15).

Right-of-Way:

Streetwall is predominantly coincident with the lot line, a maximum of 140 ft. high and a minimum of 130 ft. high (Fig. 15).

Bulkheads and other rooftop structures may rise above 140 feet if permitted by the Zoning and the Declaration of Restrictions and as approved by the Authority.

The Ground Floor must generally have a minimum floor-to-floor height of 18 feet on all frontages. Mezzanine spaces within retail areas are permitted but may not be expressed on the facade of the building.



- ▲ Preferred Entry Location
- ||||| Crosswalk
- - - Atrium & Lobbies



Fig.12: Pedestrian Circulation & Entries

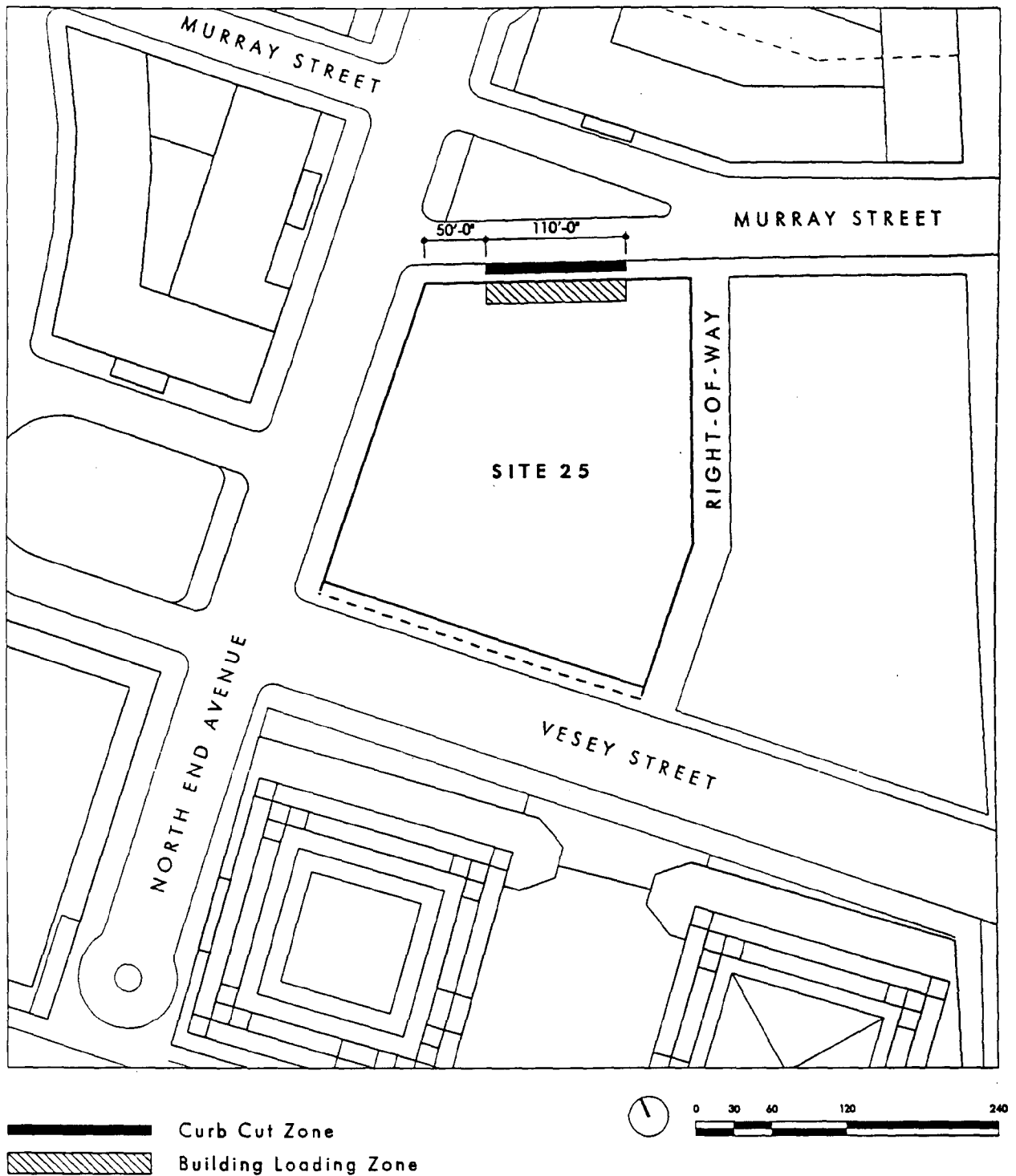


Fig.13: Curb Cuts & Loading

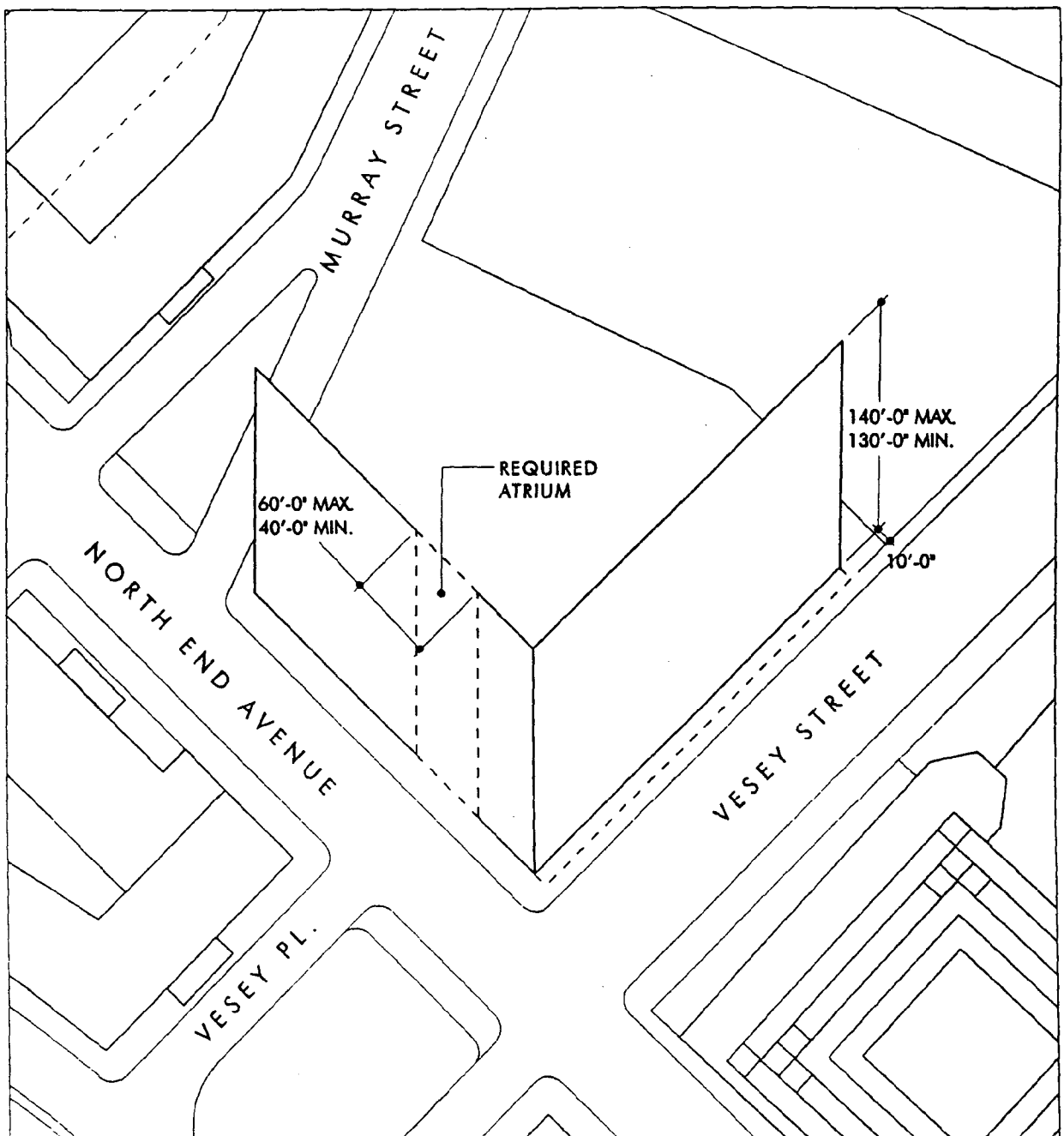


Fig.14: Streetwalls, South & West

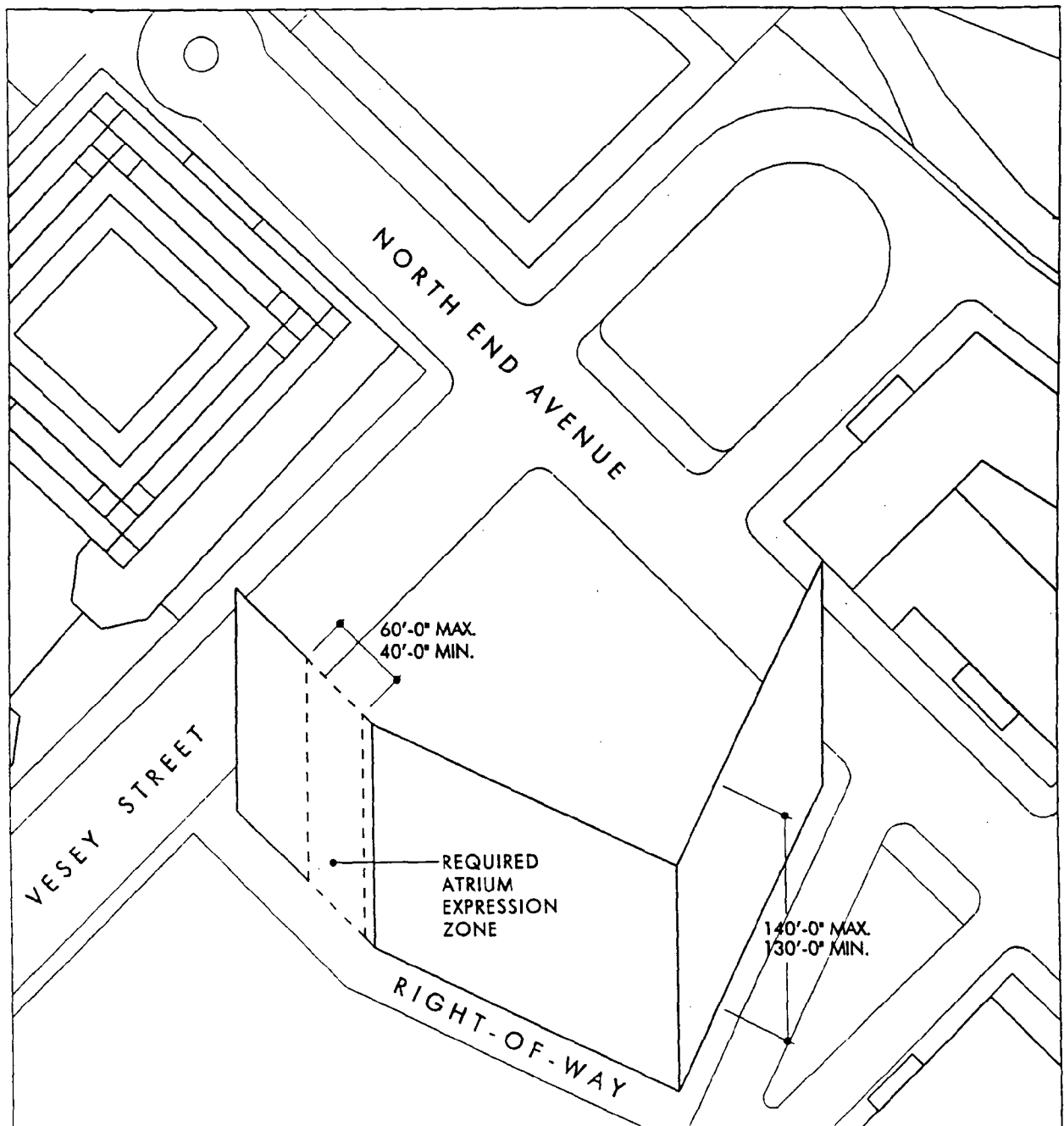


Fig.15: Streetwalls, North & East

ARCHITECTURAL DESIGN REQUIREMENTS

ARCHITECTURAL DESIGN GUIDELINES: SITE 25

Building Wall Materials

Base Course

A base course, except at the streetwall in front of the Atrium, is required in granite, marble, or natural stone to a minimum height of 30 ft. and a maximum height of 36 ft. on all facades which is compatible in color to the stone of the World Financial Center. The base course should be distinguished from the upper building by a change in material, color, or texture and by a greater amount of fenestration (see below).

At the height of approximately 30 ft. along the east facade, the Authority may attach an "enclosure" for the Right-of-Way, provided that the attachment of the enclosure does not adversely impact the structural integrity of the building and the facade is restored. The design and connection of the enclosure will be reviewed with the developer of Site 25 prior to installation.

Streetwalls

Unless otherwise permitted in *Atrium Expression Zone* below, streetwalls between the top of the base course and the Top Floor Expression Zone of the building must be a natural color brick or stone, sympathetic in color to the stone of the World Financial Center. The use of glazed brick or tiles is prohibited. Brick is required to be standard size (2 1/4" x 3 5/8" x 8"), Norman or such other size as is approved by the Authority. This applies to all facades of the building. A precast panel system with natural color bricks approved by the Authority may be used, subject to the Authority's approval of manufacturing and installation details and specifications and the approval of the manufacturer and installer. Streetwall requirements shall also apply to the facade on the Right-of-Way. All exterior metals and other facade materials, which are not specifically addressed in these Design Guidelines, including the base course and rooftop areas, shall be subject to the approval of the Authority.

Atrium Expression Zone

The west exterior wall of the atrium must be in transparent curtain wall glazing for the full height of the building, returning on the roof for a distance of approximately 6 feet, and must also extend to the ground level. Transparent curtainwall elements may project beyond mandatory streetwall lines if permitted by the Zoning. Window wall and metal panels are not permitted as part of west exterior atrium wall. The east exterior "Atrium Expression Zone" above the theater lobby may include spandrel glass. Substantially all of the metal on the exterior of the first and second floors shall be stainless steel unless such metal is covered by signage approved by the Authority. The roof of the Atrium between the bridges on the west and hotel rooms on the east, must be glazed for at least 50% of the roof area measuring approximately 40 feet x 185 feet area containing no single unglazed area greater than 400 square feet and articulated in a special manner so that the volume of the Atrium reads clearly and separately from the rest of the building.

Glass and Fenestration

Windows and window groupings should be organized to emphasize the structure and function of the building. Fenestration of the more public functions should be generous enough to allow the activity within the space to be seen from outside the building as well as allowing views of the river from within the space. Streetwall areas of the facades must have between 30% and 35% fenestration. The base course may have up to 50% fenestration.

Retail Expression

All ground floor retail storefronts and window display areas must be organized in a regular system of bays articulated in stone and shall complement the World Financial Center. All signage, graphics and displays shall be approved by the Authority as indicated in **Signage, Graphics and Displays** below. Signage on ground floor retail may be incorporated into the stone pillars between windows and entrances or may be incorporated into the marquees.

Theater Expression

Primary circulation to theater auditoria must generally be along the perimeter of the building wall and must be expressed with continuous transparent glass curtainwall on main levels where there is theater circulation. The curtain wall must extend from the intersection of the Right-of-Way with Murray Street along the Right-of-Way for approximately 100 feet and along Murray Street for approximately 50 feet, so that a prominent glass corner facing northeast is expressed. In addition to the requirements under **Signage, Graphics and Displays**, valances, signage, ornamental or accent lighting or other materials which are visible through the glass curtainwall must be approved by the Authority.

Streetwall fenestration requirements for Murray Street and the Right-of-Way in the Design Guidelines are waived for perimeter walls surrounding theaters. Solid perimeter walls surrounding theaters must be articulated with horizontal and vertical reveals or with patterns of different materials or bricks; the design of such solid walls must be approved by the Authority.

Interior Public Areas

Incursions into the Atrium may include bridges from circulation cores to hotel rooms, which must be as transparent as possible. Also, a projection of the theater volume above the base floor of the atrium is permitted, not to exceed 150 square feet in area at any point of such projection in plan view and not to exceed a maximum depth of 12 ft measured from the north wall of the Atrium.

The theater volume projection and recess and the hotel corridor walls and railings facing the Atrium must be composed of materials that are detailed and articulated in a manner approved by the Authority. Any code required division of the ground floor theater lobby, must be transparent to the fullest extent possible.

Landscaping and water features in the atrium must be consistent with the overall architectural image of the building.

Ground floor entry and reception areas must be spatially continuous with the atrium. The hotel lobby must extend for the full height of the atrium. The theater lobby space must extend to the height of the fourth floor of the hotel.

The Authority must approve the design and materials (including plant material, artificial or natural) of all interior public areas of the building, including hotel lobby areas, the atrium, and theater lobby areas.

The developer agrees to finance or arrange for financing and to manage an on-going public art program within the atrium to be coordinated by the Public Art Fund. The selection of art shall be made by a committee to be created which shall include the Authority as a member.

ARCHITECTURAL DESIGN GUIDELINES: SITE 25

The Atrium must be open to the public at both ends during daylight hours and until midnight for at least 18 consecutive hours per day. Public restrooms with a minimum of three toilet fixtures each for men's and women's restrooms are required in the Atrium and must be open during the hours of the Atrium operation. Atrium level restaurant seating located in the atrium may only be used by patrons of eating or drinking establishments or patrons of facilities serving hotel guests during those hours in which such establishments or facilities are also open to the general public.

Up to 5 feet in depth north of the southern line of the 40 feet width of the Atrium may be allocated to restaurant/bar seating which is open to the general public at all times as hotel guests are permitted to use such seating. Such area shall be conspicuously marked by a distinctive line, a change in floor materials or such other easily visible marking approved by the Authority to indicate the Atrium restaurant zone. The configuration of such seating shall maintain a minimum 16 foot clear floor space width and be subject to the approval of the Authority. No other retail or service uses are permitted in the Atrium.

Top Floor Expression Zone

Expression lines, developed as lines or projections marked by a change in color, texture, material or fenestration, are required at the topmost floor. A prominent cornice subject to the approval of the Authority is required.

Rooftops and Bulkheads

Mechanical equipment must be completely enclosed, except for venting. Bulkheads must be set back a minimum of 10 ft. from the streetwalls. Bulkheads must be designed to minimize their size to the maximum extent possible and bulkhead walls must contain a significant percentage of the type of brick used for the streetwalls. The bulkhead design shall be approved by the Authority. Rooftop may also be used for public amenities such as restaurants, health clubs, etc. or accessory uses subject to approval by the Authority. Accessory antenna and satellite dishes are permitted subject to approval by the Authority.

Marquees

The main hotel and movie theater entrances must be covered with marquees. Marquees must be a minimum of 10 ft. above the sidewalk, be supported entirely from the building as a cantilever or with guy wires and project from the property line a minimum of 16 1/2 ft. for the hotel and 12 ft. for the theater. Substantially all of the material on the marquees must be stainless steel unless otherwise approved by the Authority. Signage and lighting on marquees must be approved by the Authority.

Signage, Graphics and Displays

Window treatments and exterior lighting and signage and interior signage within public spaces or intended to be viewed from outside the building must be approved by the Authority. Any signage on Vesey Street must be consistent with the type of signage used in the World Financial Center. For the types of retail signage, graphics and displays indicated below (not including theater signage), the following specifications are approved by the Authority:

1. Exterior Ground Floor Retail Transom Signage Panels (above storefronts)
 - a. Background metal signage panel color shall be consistent in color and finish with the approved color and finish of the metal window wall and storefront system.

ARCHITECTURAL DESIGN GUIDELINES: SITE 25

- b. Background metal signage panel color shall be consistent in color and finish with the approved color and finish of the metal window wall and storefront system.
 - c. The permissible signage and graphics, for these signage panels, shall include only the representative name, in the typeface, font, style, or color, of the retail establishment. Logos or icons, representative of the establishment are acceptable, in addition, or as substitute for the name, within the dimensional parameters below. Blank panels without signage or graphics are permitted.
 - d. All signage and graphics to be cut-out from metal signage panel with flush (maximum ½" extension from exterior surface) insert of translucent acrylic or approved equal. Translucent material may be colored.
 - e. Lighting for all signage and graphics must be backlit with even white, or colored light. No moving, alternating, or flashing lighting is permissible unless approved by the Authority.
 - f. All signage and graphic elements shall maintain a maximum of 1'-0" and a minimum of 0"-5" in height and maintain a border, with respect to the edges of the transom panel, of 0'-6", on all sides, as approved by the Authority.
2. Interior Retail Signage, Graphics and Displays
- a. All interior signage and graphics, intended to be viewed from the exterior of the building must be approved by the Authority. Permissible signage and graphics shall include only the representative name, logo or icon of the retail establishment. No permissible illuminated signage shall be moving, alternating, or flashing, unless approved by the Authority.
 - b. Ground Floor Retail - Permissible signage and graphics intended to be viewed from the exterior of the building shall be limited to neon signage and graphics, or signage and graphics applied to the interior storefront glass areas (including stencils or applied lettering). Notwithstanding the foregoing, all permissible signage and graphics must be approved by the Authority as to number, size and placement.
 - c. Second Floor Retail - Permissible signage and graphics intended to be viewed from the exterior of the building shall be limited to (i) a zone which is the smaller of "hopper" windows in the lower portion of the window opening or the lowest 0'-10" of window height, (ii) discrete letter or graphic elements (i.e., continuous stripes or other graphic or lettered elements intended to read in a connected fashion between two or more windows will require the approval of the Authority) and (iii) stencils or applied lettering with all signage and graphic elements having a maximum of 0'-8" and a minimum of 0'-4" in height, as approved by the Authority. Notwithstanding the foregoing, all permissible signage and graphics must be approved by the Authority as to number, size and placement.

ARCHITECTURAL DESIGN GUIDELINES: SITE 25

- d. It is recommended that, to disguise unwanted displays and retail operations, and to maintain a retail quality consistent with the World Financial Center, a "skirt" of approximately 36" above grade, may be applied to the inside of the glass, or placed within 18" of the interior of the glass storefront surface. All such "skirts" must be approved by the Authority as to whether such retail quality is maintained.
- e. The backs of interior merchandise displays must not be visible from the exterior. Window displays may include merchandise only and may not include promotional materials or signage or graphics except as permitted above. If displayed, merchandise must be arranged/displayed in an attractive manner.

3. Vacant Retail Spaces

- a. All exterior retail transom signage panels, at vacant retail storefront areas, shall not have signage or graphics.
- b. All signage, graphics or displays at vacant retail areas, meant to be viewed from the exterior, which display information about the rental, or leasing of these areas is permissible, but must be standardized and approved by the Authority.

4. Exterior Banners

- a. Exterior banners are permissible as approved by the Authority and shall be produced by a single fabricator and maintained to a uniformly high quality.
- b. All permissible exterior banners shall be of a consistent graphic layout, color scheme and design and may include the name, logo or graphic representative of the retail establishment adjacent to the banner location, as well as the name, logo, or graphic of the building, as approved by the Authority.
- c. All permissible exterior banners shall be located within the façade stone base, between glazed storefront, entry or service areas, and projecting perpendicular to this surface. The banner size, and the supports for such banners, shall be of a consistent size and height, and not exceed 2'-6" from the surface of the facade, and not be more than 10'-6" in vertical height, and be no less than 10'-0" above grade.
- d. These exterior banners may be illuminated as approved by the Authority.
- e. The supports, material, fabric, and lighting of the banners shall be of a nature to withstand the particular climate of this location.

ARCHITECTURAL DESIGN GUIDELINES: SITE 25

Miscellaneous

The location of any vents, louvers, mechanical equipment at the perimeter of the building must be approved by the Authority. All venting must be through the roof unless otherwise approved by the Authority. The developer must also submit for approval the means by which garbage will be stored at and removed from all facilities, including subleased retail spaces. Garbage must be stored within the building.

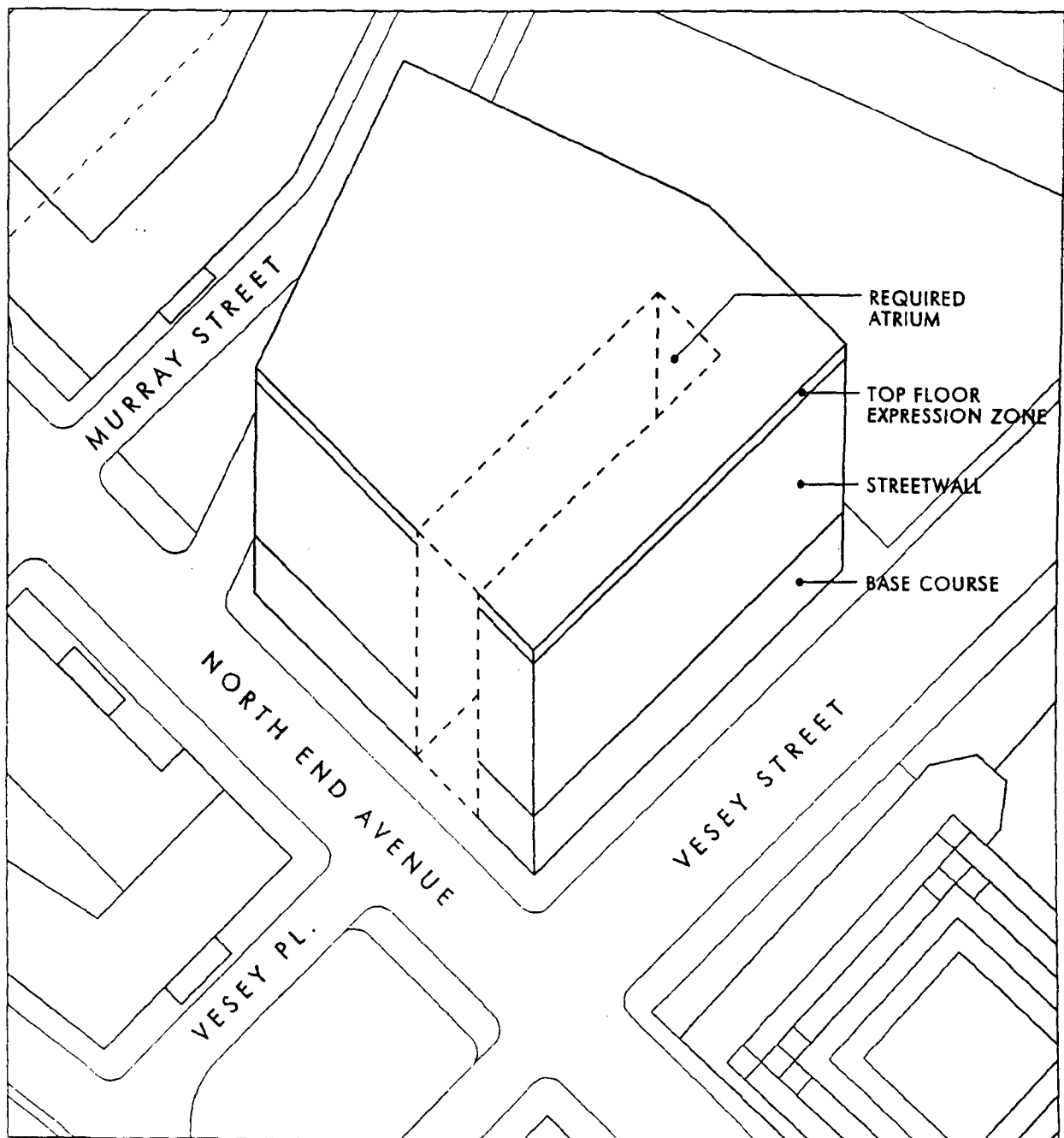


Fig.16: Site 25 Building, South & West

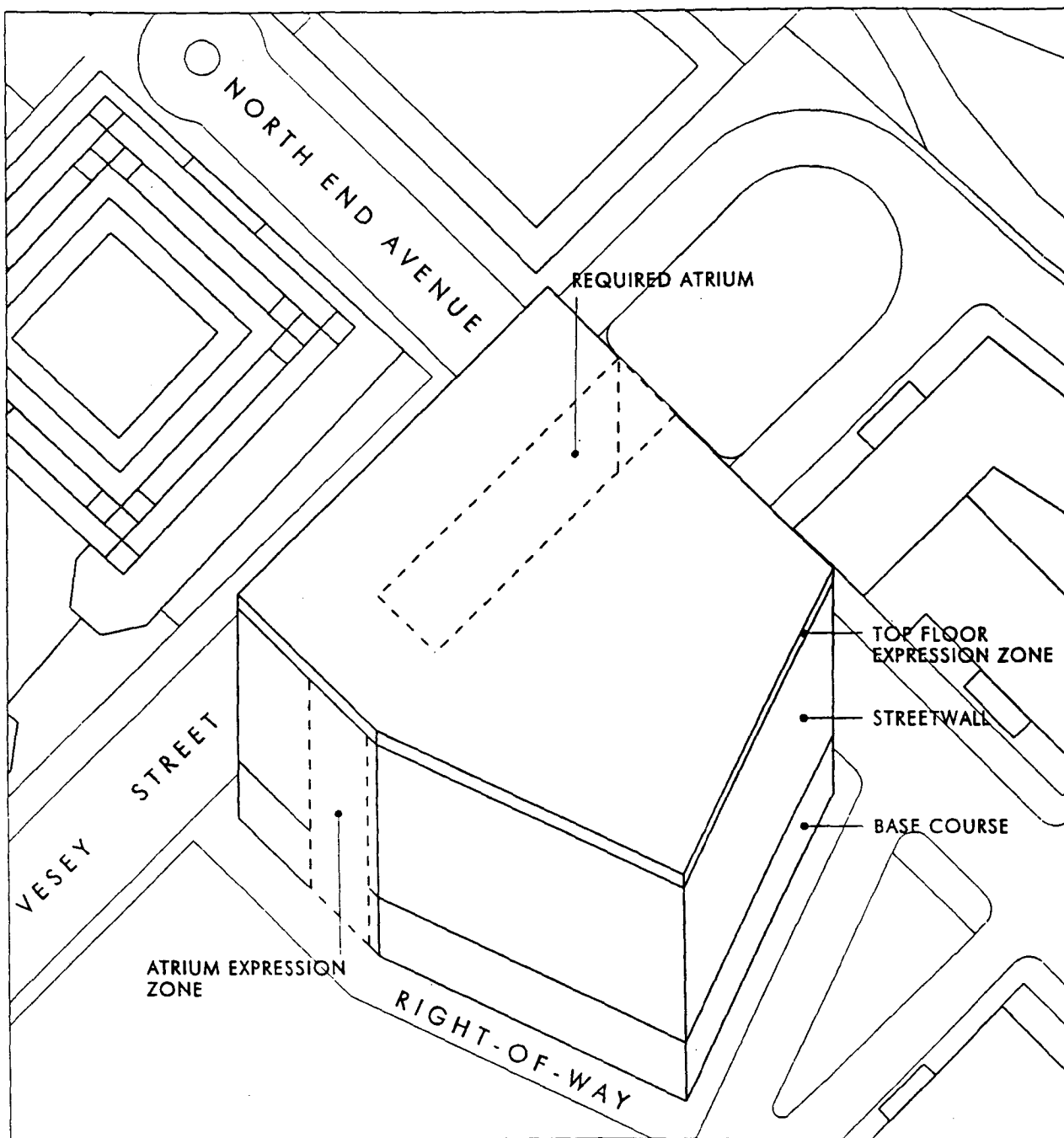


Fig.17: Site 25 Building, North & East

ADMINISTRATIVE FRAMEWORK

ADMINISTRATIVE FRAMEWORK

Before commencing construction, the developer must obtain all required governmental approvals, approvals required by the Lease and a certification from the Authority stating that the proposed development is in accordance with the Design Guidelines and the Authority's Affirmative Action program. Approval to begin construction prior to such certificates may be given by the Authority as set forth in the Lease.

1. Submission Requirements

Certification by the Authority will consist of the following:

- a. **Approval of Developer's Selection of Architect(s) and Engineers**
- b. **Review and Approval of the Developer's Plan and Specifications**
For each phase (Pre-Schematics, Schematics, Design Development, and Construction Documents), plans must be approved through a design review process by the Authority, with assistance from its consultants as required. Each submission must be in substantial conformance with the previously approved submission. In each subsequent submission, the architect must note any change from the previous version. In addition, the architect must include a letter that summarizes any changes.

The developer must submit information in drawings (measuring 24" x 36", bound and numbered) for each step of the review and approval process. Where alternate scales are shown, the Authority will direct which scale to use. With the exception of the Pre-Schematic submission, zoning and gross square foot calculations must be provided with each submission.

b.1 Pre-Schematics

In order to clarify basic assumptions and conceptual issues, the developer must submit the following information for review and approval prior to the Schematic date as outlined in the *Ground Lease*:

- Conceptual site plan(s).
- Conceptual ground floor plan(s) indicating uses, access, and entries.
- Conceptual elevation(s) of street facades.
- Conceptual hotel room layouts.
- Massing model.

ADMINISTRATIVE FRAMEWORK

b.2 Schematics

To verify conformance with the previously approved submission, a review and approval of the developer's Schematic submission is required. The developer must submit the following information:

- Site plan indicating building footprint, landscaping, grading and paved areas. Scale: 1" = 16' or larger.
- Ground floor, roof, and typical floor plans. Scale: 1" = 8' or 1" = 16'.
- Building elevations. Scale: 1" = 4' or 1" = 8'. Planar elevation changes are to be indicated in inches.
- Bulkhead and rooftops in elevation. Scale: 1" = 4'.
- Building sections. Scale: 1" = 8' or 1" = 16'.
- Cornice Details.
- For all buildings, front-wall elevations showing the ground through fourth floors and indicating material treatment and location of marquees are also to be drawn at 1" = 4'. Planar elevation changes shall be indicated in inches.
- Model indicating building massing, in white 'Strathmore' board, for insertion into the Battery Park City site model. Scale: 1" = 20'.
- Single-line drawings showing mechanical, electrical, and plumbing systems and connections.
- Signage Program.
- Outline specifications for basic systems and exterior materials, including colors.

ADMINISTRATIVE FRAMEWORK

b.3 Design Development

To verify conformance with the previously approved submission, a review and approval of the developer's Design Development plans and outline specifications is required. The developer must submit the following information:

- Design Development plans, elevations and details of all special features including: atrium walls west and east, theater walls north, east and interior, atrium skylights, major entrances and lobbies and loading docks - 1" = 4'.
- Floor plans, building sections and elevations. Scale: 1" = 8' or 1" = 16'. Dimensioned site plan - 1" = 50 or 1" = 20.
- Additional plans, sections, and elevations for typical exterior details, including marquees, at appropriate scale.
- Detail plans of open spaces.
- Detail plans with furniture layouts of all public spaces. Scale as appropriate.
- Samples of all materials for exterior envelope and public spaces.
- Mechanical, electrical, and plumbing drawings.
- Updated model.
- Technical specifications.
- Program description including uses (public vs. private) for all ground floor and atrium accessible spaces, hours of operation, anticipated circulation, back of house needs.
- Mock-up on site. Illustrate the use and color of brick, stone, mortar and a window unit. The mock-up must be sufficient scale to evaluate the proposed materials.
- Detailed Signage Plan including location, dimensions and graphics for all uses: theater, retail hotel on exterior and in public spaces.
- Roof plan.
- Bulkhead plans and elevations.

ADMINISTRATIVE FRAMEWORK

b.4 Construction Documents

Review and approval of the developer's final contract plans and specifications for each building or facility are required to verify conformance with previously approved submissions. The developer must submit the following information:

- Final Construction Documents, including all plans, elevations and details as previously approved and developed to a level from the project can be built.
- Updated model.
- Final specifications.
- The developer, on receipt of written approval by the Authority of these final contract plans, is responsible for obtaining all regular approvals from the Buildings Department, the Department of Transportation, the New York City Planning Commission, and other city agencies.
- Maintenance Schedule
- Quality Assurance Program

2. Changes During Construction

All changes to the final Contract Documents, including exterior materials and specifications, must be submitted by the architect of record for certification to the Authority to ensure that the changes are in accordance with the approved documents. All changes to the final Contract Documents and the above certification from the architect of record must be submitted to the Authority for approval prior to construction. In addition, bi-monthly reports must be submitted to the Authority during construction by the architect of record. These reports shall verify that the construction is proceeding in conformance with both the approved Contract Documents and the approved changes.

3. Reviews

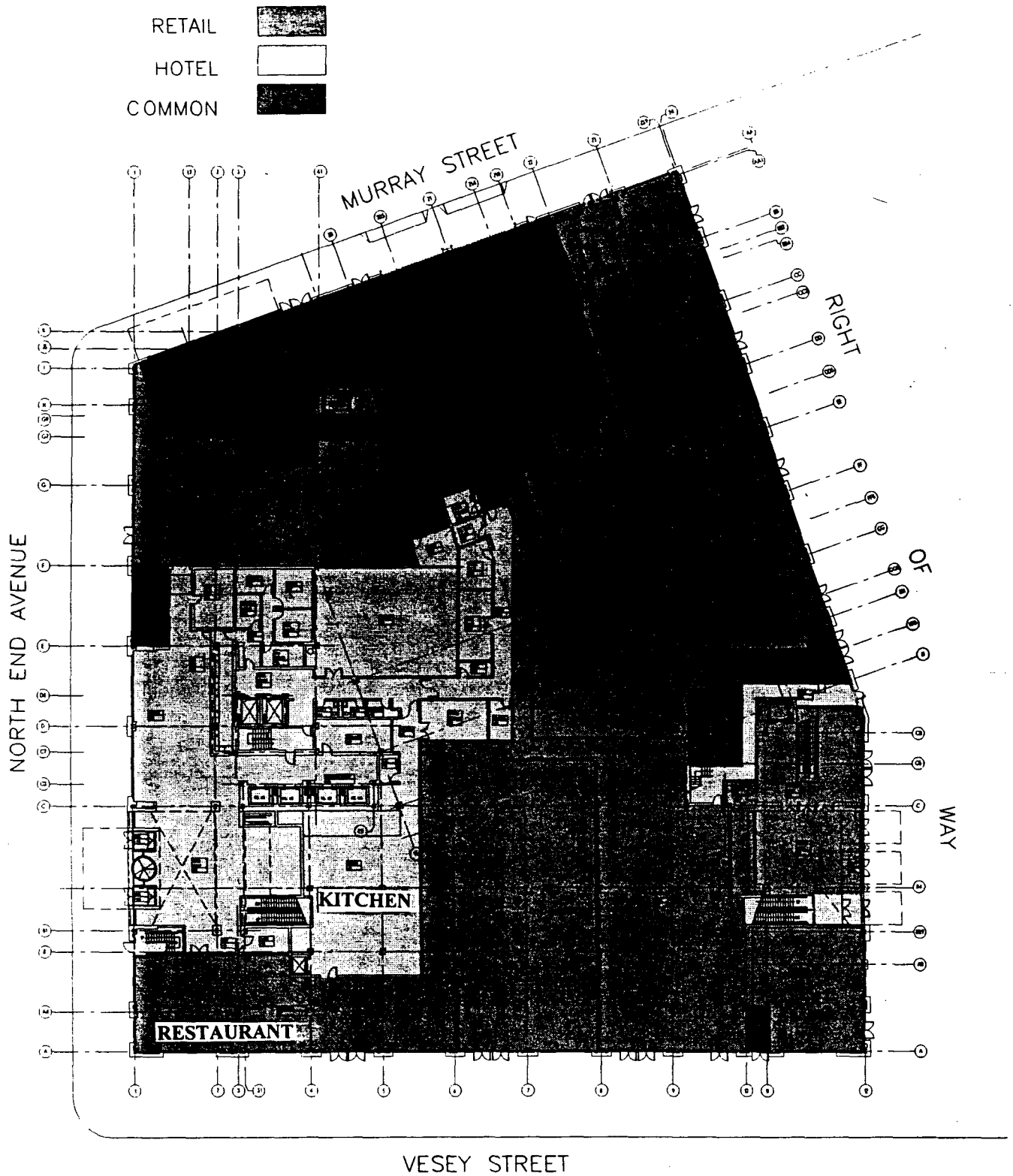
The Authority will review all submissions in a prompt and timely manner. Review periods will be as described in the Lease. Further, the Authority will maintain field personnel to observe construction methods and technologies and to verify that construction is proceeding in accordance with the official documents.

4. As-Built Drawings

Developers are required to submit a record set of building drawings in a CAD format to be designated.

EXHIBIT D

[DIAGRAM OF GROUND FLOOR SHOWING THE KITCHEN]



FOREST CITY RATHEN
EMBASSY SUITES AT BATTERY PARK CITY

FIRST FLOOR - DESCRIPTION OF PREMISES

EXHIBIT E

[TITLE MATTERS]

EXHIBIT _____

TITLE MATTERS

All capitalized terms not otherwise defined herein shall have the meanings provided in the Ground Lease dated _____, 1998 between Battery Park City Authority (hereinafter "BPCA"), as Landlord, and BPC Site 25 Associates, LLC, as Tenant.

1. Restated Amended Agreement of Lease ("Master Lease") dated June 10, 1980, between BPC Development Corporation, as landlord, and BPCA, as tenant, a Memorandum of which was recorded on June 11, 1980 in the Office of the City Register, New York County in Reel 527 at page 163, as amended by First Amendment to Restated Amended Lease dated June 15, 1983 recorded on June 20, 1983 in said Register's Office Reel 696, at page 424, Second Amendment to Restated Amended Lease dated June 15, 1983, recorded on June 20, 1983 in said Register's Office in Reel 696, Page 432 in the Office of the Register of New York City (New York County), as amended by Third Amendment to Restated Amended Lease dated August 15, 1986, recorded on October 22, 1986 in said Register's Office in Reel 1133 at page 569, and Fourth Amendment to Restated Amended Lease dated as of May 25, 1990 and recorded on May 30, 1990 in said Register's Office in Reel 1697 at page 307, as the same may (subject to the provisions of Section 41.18 of the Ground Lease) be hereafter amended, modified or supplemented.
2. Settlement Agreement dated as of June 6, 1980, between the City and BPCA, as supplemented by Letter, dated June 9, 1980, from Richard A. Kahan to Edward I. Koch, and amended by Amendment to Settlement Agreement dated as of August 15, 1986 between New York City and Landlord; Agreement for Certain Payments dated as of June 28, 1989, between New York City and BPCA; Agreement and Consent dated as of December 30, 1989, between New York City and BPCA; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of May 18, 1990 between New York City and BPCA; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of October 15, 1993 between New York City and BPCA; Amendment and Agreement and Consent Pursuant to Settlement Agreement dated as of April 10, 1995 between New York City and BPCA; 1996 Agreement and Consent Pursuant to Settlement Agreement dated as of October 1, 1996 between New York City and BPCA; 1998 Agreement and Consent Pursuant to Settlement Agreement dated as of May 1, 1998 between New York City and BPCA, and as the same may be (subject to the provisions of Section 41.18 of the Ground Lease) hereafter amended, modified or supplemented.
3. Declaration of Restrictions dated June 15, 1983 made by BPCA recorded on June 20, 1983 in reel 696 page 551 and reel 776 page 360 as amended and restated by Amendment and Restatement of Declaration of Restrictions dated as of May 18, 1995 recorded May 31, 1995 in reel 2211 page 1414.
4. Memorandum of Understanding dated as of November 8, 1979, among the Governor of the State of New York, the Mayor of New York City and the President and Chief

Executive Officer of BPCA, as supplemented by Letter, dated November 8, 1979, from the President and Chief Executive Officer of BPCA to the Mayor of New York City, and as amended by the 1986 Supplemental Memorandum of Understanding, dated as of August 15, 1986 among the Governor of the State of New York, the Mayor of the City of New York and BPCA, and the Amendment to the Memorandum of Understanding, dated as of January 9, 1995 among the Governor of the State of New York, the Mayor of the City of New York and BPCA.

5. Sidewalk Easement as indicated on the City Map (described in Item 7 below) and described in the Design Guidelines.
6. Option to Purchase dated as of June 6, 1980 among New York State Urban Development Corporation, BPC Development Corporation, BPCA and the City of New York and recorded on June 11, 1980 in Reel 527, page 153 in the Office of the Register of New York City (New York County), as amended by amendment to Option to Purchase dated as of August 15, 1986 between BPCA and the City of New York and recorded on October 22, 1986 in Reel 1133, page 582 in said Register's Office, and further amended by Second Amendment to Option to Purchase dated as of May 18, 1990 between BPCA and the City of New York and recorded on May 30, 1990 in reel 1697, page 294 in said Register's Office.
7. The City Map of the City of New York as modified by a Map Showing a Change in the City Map, dated January 15, 1987, corrected September 10, 1993 and certified by the Secretary to the City Planning Commission on November 5, 1995 and as the City Map may be otherwise modified.
8. Mapping Agreement between the City of New York and BPCA made as of October 3, 1991.
9. The state of facts shown on the survey dated September 28, 1998, prepared by Vollmer Associates LLP, and any additional state of facts a visual inspection would reveal.
10. Zoning and other laws, ordinances, governmental regulations, orders and requirements pertaining to the Premises.
11. Rights of Federal Government to enter upon and take possession of lands, now or formerly lying below the high water mark of the Hudson River.

or (y) ~~the Restaurant Operator~~ ~~the Hotel Operator~~ is operating the Kitchen & providing food and beverage services in the Hotel Unit on the Funding Date

(x)

on the Funding Date

or Hotel Operator
not

in either case, any such facts

that discloses facts that could reasonably lead to the closing or cessation of operations in the Kitchen

that discloses facts that could reasonably lead to the closing or cessation of operations in the Kitchen

in form and substance reasonably satisfactory to Permanent Lender and the indemnitor thereunder, indemnify and fully hold harmless Permanent Lender from and against any and all consequences of the failure of Permanent Lender to have received such estoppel in the form attached hereto as Exhibit V-3 and the party giving such agreement shall provide Permanent Lender with reasonably satisfactory proof of corporate power and authority and enforceability with respect to such indemnification agreement and/or (B) if a Restaurant Operator shall be operating the Kitchen and providing food and beverage services in the Hotel Unit and such Restaurant Operator either fails to deliver an estoppel certificate or delivers an estoppel certificate in the form of Exhibit V-4 with material modification (except for modifications reflecting the matters or circumstances permitted under Sections 3(b)(vii), 3(d), 3(f), 3(j) or 3(h) hereof and otherwise if an express provision of this Agreement expressly contradicts and is expressly more permissive than a provision of the estoppel certificate), then, until ~~Restaurant Operator shall~~ deliver to Permanent Lender such estoppel certificate without material modification (except for modifications reflecting the matters or circumstances permitted under Sections 3(b)(viii), 3(d), 3(f), 3(j) or 3(h) hereof and otherwise if an express provision of this Agreement expressly contradicts and is expressly more permissive than a provision of the estoppel and recognition certificate) or Hotel Operator shall confirm to Permanent Lender that Hotel Operator is operating the Kitchen as set forth in Section 3(b)(xiii) below the Promus Guarantor shall be responsible for the Guaranteed Obligations under the Interim Guaranty. Hotel Owner shall obtain from the Architect and Lehrer McGovern Bovis, Inc. (the "Construction Manager"), and shall use its best efforts to obtain from each other contractor performing work or supplying materials in connection with the completion of the Punch List Items, an agreement in the form of Exhibit X whereby each such contractor recognizes Permanent Lender as the assignee of all applicable construction contracts;

or (2) Hotel Operator is operating the Kitchen & providing food and beverage services in the Hotel Unit and fails to deliver written confirmation thereof.

(1) in the case of the opening of the Kitchen, the date of opening of the Kitchen, and the date of delivery to the Restaurant Operator

certified copy of the filed Condominium Declaration and by-laws (the "Condominium Documents") substantially in the form of the Condominium Declaration attached hereto as Exhibit W, together with (A) a confirmatory letter from the board of managers or other governing body under the Condominium Documents in the form of Exhibit Y hereto as to (1) the Hotel Owner's payment of all common charges and other amounts due under the Condominium Documents with respect to the Hotel Unit through the Funding Date and (2) the status of the Permanent Mortgage as a "Registered Mortgage" (as such term is defined in the Condominium Documents), (B) (1) evidence, in the form of a letter from the New York State Department of Law, that it has accepted for filing a condominium offering plan and that an amendment declaring such plan effective has been filed and accepted for filing or (2) a "no action" letter from the New York State Department of Law to the effect that it will not take any enforcement action because the formation of the condominium occurs without the filing of a registration pursuant to Section 352-e and Section 359-e of the New York General Business Law, (C) an estoppel certificate from BPCA in the form of Exhibit V-1 to the effect that Sponsor has satisfied all of the conditions of Section 43.01(c) of the Ground Lease and (D) the Proxy. In the event that the Condominium shall be a common law condominium, then, in lieu of the foregoing items, there shall be delivered to Permanent Lender a certified copy of reciprocal easement agreement or other document(s) relating to the formation and governance of the same and an estoppel certificate in form and substance reasonably

in accordance with clause (iii) below

to the Permanent Lender

in the form of Exhibit V-4 hereto without material modification that discloses facts that could reasonably lead to the closing or cessation of operations in the Kitchen (except for modifications reflecting the matters or circumstances permitted under Sections 3(b)(viii), 3(d), 3(f), 3(j) or 3(h) hereof and otherwise if an express provision of this Agreement

or terminates the same prior to the Funding Date

satisfactory to the Permanent Lender from (i) each party to such reciprocal easement or other agreement and (ii) BPCA to the effect that Sponsor has satisfied all of the conditions of Section 43.01(c) of the Ground Lease, which estoppel certificate may in the case of BPCA, be in the form of Exhibit V-1;

(xii) Satisfaction of Junior Hotel Mortgage. A satisfaction of the Junior Hotel Mortgage in recordable form duly executed and acknowledged by the Construction Lender and sufficient to satisfy of record the Junior Hotel Mortgage; and

(xiii) Restaurant. A certified copy of each of (i) a fully executed and delivered lease (the "Kitchen Lease") between Hotel Owner and a restaurateur reasonably acceptable to Permanent Lender (the "Restaurant Operator") for the kitchen space in the Hotel Unit (the "Kitchen"), (ii) a fully executed and delivered lease (the "Restaurant Lease") between Retail Owner and Restaurant Operator for restaurant space in the Retail Unit and (iii) a fully executed and delivered Hotel Services Agreement (the "Hotel Services Agreement") between Hotel Owner and Restaurant Operator for the provision of food and beverage services to the Hotel Unit and guests and patrons thereof, each in form and substance reasonably satisfactory to Permanent Lender and satisfying the conditions, if any, set forth with respect thereto in the Management Agreement and/or the Guarantee of Payment and Performance by the Promus Guarantor. It is acknowledged that Larry Forgione, or any entity owned and controlled by such individual, is an acceptable Restaurant Operator. Notwithstanding the foregoing provisions of this Section 3(b)(xiii), it is acknowledged and agreed that ~~in lieu of entering into the Kitchen Lease and the Hotel Services Agreement with a Restaurant Operator, Hotel Owner shall elect to have the Hotel Operator operate the Kitchen and be the provider of food and beverage services to the Hotel Unit and guests and patrons in accordance with the Management Agreement, in which case the Kitchen Lease, Restaurant Lease and Hotel Services Agreement shall not have been entered into (or, if entered into, shall have been terminated or expired in accordance with their terms) and need not be delivered to Permanent Lender.~~

and Hotel Operator shall confirm the same to Permanent Lender in writing

If the Hotel Owner does not enter

(then (i))

(ii)

and ~~the~~ (iii) and estoppel certificate for the Kitchen Lease, Restaurant Lease and Hotel Services Agreement need not be delivered to Permanent Lender

c. Liens for Construction of Retail Unit. Sponsor agrees, to the extent that any contracts with any mechanic's, materialmen, contractors and other vendors supplying labor and/or materials for the construction of the Condominium apply to or otherwise cover elements of both the Hotel Unit and the Retail Unit, that Sponsor shall use commercially reasonable efforts to obtain acknowledgments from the applicable mechanic's, materialmen, contractors and other vendors whereby such parties agree to look exclusively to the Hotel Unit in the recovery of sums due to such party for work performed upon the Hotel Unit and exclusively to the Retail Unit in the recovery of sums due to such party for work performed upon the Retail Unit. In any event, the Title Policy shall affirmatively insure the Permanent Lender against any loss, cost or expense suffered or incurred by the Permanent Lender as a result of or in connection with the existence or assertion against the Hotel

EXHIBIT F

[FORM OF SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT]

EXHIBIT ____

SUBORDINATION NON-DISTURBANCE
AND ATTORNMENT AGREEMENT

THIS SUBORDINATION NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement"), made as of the ____ day of ____, 1998, among BATTERY PARK CITY AUTHORITY, a body corporate and politic constituting a public benefit corporation of the State of New York having an office at One World Financial Center, New York, New York 10281 ("Ground Lessor"); BPC SITE 25 ASSOCIATES, LLC, a New York limited liability company having an office c/o Forest City Ratner companies, 1 MetroTech Center North, Brooklyn, New York 11201 ("Ground Lessee"); FC Battery Park Associates, LLC, a New York limited liability company having an office c/o Forest City Ratner Companies, 1 MetroTech Center North, Brooklyn, New York 11201 ("Retail Subtenant"); and [Tenant's Name], a [legal structure, i.e., corporation, partnership] having an office at [address] ("Tenant").

W I T N E S S E T H:

WHEREAS, pursuant to that certain Ground Lease dated as of November ____, 1998 between Ground Lessor and Ground Lessee (such lease, as the same may be assigned, amended or restated from time to time, the "Ground Lease"), Ground Lessor leased to Ground Lessee the land described in Schedule A attached hereto and the improvements to be constructed thereon (collectively, the "Ground Lease Premises");

WHEREAS, pursuant to that certain Retail Sublease dated as of November ____, 1998 between Ground Lessee and Retail Subtenant (such lease, as the same may be amended or restated from time to time, the "Retail Sublease"), Ground Lessee leased to Retail Subtenant that portion of the Ground Lease Premises which is described in Schedule B attached hereto (the "Retail Complex");

WHEREAS, pursuant to that certain Lease dated as of ____, 19__ between Retail Subtenant and Tenant (such lease, as the same may be amended or restated from time to time, the "Lease"), Retail Subtenant leased to Tenant that portion of the Retail Complex which is described in Schedule C attached hereto (such premises, the "Premises");

WHEREAS, the Ground Lease provides (and Ground Lessor and Ground Lessee contemplate) that, following substantial completion of construction of the building of which the Premises are a part (the "Building"), Ground Lessee will condominiumize (or effect a "common law" condominium of) the Building and assign its tenant's interest under the Ground Lease to Ground Lessor, with the result that (i) the Ground Lease (which provides that it will not merge if Ground Lessee assigns its tenant's estate to Ground Lessor) shall be between Ground Lessor, as landlord, and Ground Lessor, as tenant, and (ii) the Retail Sublease shall be between Ground Lessor (as successor in interest to Ground Lessee), as landlord, and Retail Subtenant, as tenant; and

WHEREAS, Tenant has requested and the Ground Lessor, Ground Lessee, and Retail Subtenant have agreed, that this Agreement be executed and delivered in consideration for Tenant's execution and delivery of the Lease.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration the receipt and sufficiency of which are hereby conclusively acknowledged, the parties hereto agree as follows:

1. The agreements and obligations of Ground Lessor (or of Ground Lessee, as successor-in-interest to Ground Lessee as tenant under the Ground Lease) set forth herein shall be of no force or effect until (and are expressly contingent upon the occurrence of): (x) Substantial Completion of the Building (as defined in the Ground Lease), (y) delivery of the Premises by Retail Subtenant to Tenant and (z) completion by (or on behalf of) Retail Subtenant of all work required under the Lease to be performed by the date on which the Premises are delivered by Retail Subtenant to Tenant (in accordance with the relevant provisions of the Lease).

2. Tenant covenants and agrees that the Lease is, and shall at all times continue to be, subject and subordinate in each and every respect to the Ground Lease, and the Retail Sublease. Tenant, upon request, shall execute and deliver any certificate or other instrument which the Master Landlord may reasonably request to confirm said subordination by Tenant.

3. Tenant hereby certifies to Ground Lessor, Ground Lessee and Retail Subtenant as follows: (a) that the Lease, a true and correct copy of which is annexed hereto in Schedule D is in full force and effect and, except as provided in Schedule D annexed hereto, the Lease is unmodified; (b) that no [fixed rent – reference lease's defined terms] payable thereunder has been paid more than one (1) month in advance of its due date; (c) that, except as provided in Schedule D annexed hereto, no default of Tenant exists under the Lease which has continued beyond the expiration of any applicable notice and grace period; and (d) that, except as provided in Schedule D annexed hereto, no default of Retail Subtenant exists under the Lease which has continued beyond the expiration of any applicable notice and grace period.

4. If any act or omission of Retail Subtenant would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate the Lease, or to abate or offset against the payment of [fixed rent, percentage rent, additional rent or charges – reference lease's defined terms] or to claim a partial or total eviction, or to exercise any right of self-help set forth in its Lease, Tenant shall not exercise such right until (a) it has given written notice of such act or omission to Ground Lessee and (b) a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice. Said reasonable period of time shall include a reasonable period of time for Ground Lessee to become entitled under the Retail Sublease to remedy Retail Subtenant's act or omission, but shall in no event be less than the period to which Retail Subtenant would be entitled under the Lease or otherwise, after similar notice, to effect such remedy, plus thirty (30) days.

5. Provided Tenant shall not be in default beyond the expiration of any applicable grace period in the payment of rent or additional rent or in the performance of any of the other material terms, covenants, conditions, and provisions on its part to be performed under

the Lease, (a) in the event of the termination of the Retail Sublease or of the Retail Sublease and the Ground Lease (by surrender, cancellation, default, or for any other reason other than a termination in connection with cancellation right granted to the landlord under such Lease (or leases) in connection with a casualty or condemnation), such termination shall not result in the cancellation or termination of the Lease, and, except as may be necessary to fulfill any legal requirements, Tenant will not be named or joined in connection with any action or proceeding by Ground Lessee to terminate or enforce the Retail Sublease or by Ground Lessor to terminate or enforce the Ground Lease, (b) no default under the Retail Sublease and no action or proceeding by Ground Lessee that shall result in a cancellation or termination of the Retail Sublease, will disturb Tenant's possession under the Lease, and the Lease will not be cut off or affected thereby and (c) no default under the Ground Lease, and no action or proceeding by Ground Lessor that shall result in a cancellation or termination of the Ground Lease, will disturb Tenant's possession under the Lease, and the Lease will not be cut off or be affected thereby.

6. If Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee following the assignment by Ground Lessee to Ground Lessor of Ground Lessee's tenant's interest under the Ground lease) succeeds to the interest of landlord under the Lease (by reason of a termination of the Retail Sublease or otherwise), Tenant shall attorn to and recognize Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) as the landlord under the Lease, and Ground Lessee or Ground Lessor, as successor-in-interest to Ground Lessee as the case may be, shall recognize such attornment, all upon all of the executory terms, covenants and conditions of the Lease for the balance of the term thereof, subject, however, to the provisions of paragraphs 6 and 7 hereof. The attornment under this Paragraph 5 shall be effective and self-operative, without the execution of any further instruments, upon such termination of the Retail Sublease. Tenant, upon request, shall execute and deliver any certificate or other instrument which the Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) may reasonable request to confirm such attornment by Tenant. Tenant and Ground Lessee hereby waive the provisions of any statute or rule of law now or hereafter in effect that may give or purport to give Tenant Ground Lessee any right or election to terminate or otherwise adversely affect the Lease or the obligations of Tenant and Ground Lessee thereunder by reason of any termination of the Retail Sublease.

7. Notwithstanding the aforesaid agreement of Ground Lessee (or of Ground Lessor, as successor-in-interest to Ground Lessee, as aforesaid) to recognize the Lease upon a termination of the Retail Sublease, and notwithstanding the aforesaid agreement of Tenant to attorn to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be), the parties hereto agree that Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall not be:

- (1) liable for any previous act or omission of any prior landlord under the Lease (each, a "Prior Landlord");
- (2) responsible for any monies owing by any Prior Landlord to the credit of Tenant;
- (3) subject to any offsets, claims, counterclaims, demands or defenses which Tenant may have against any Prior Landlord;

- (4) bound by any payments of rent, additional rent or other charges which Tenant might have made for more than one (1) month in advance to any Prior Landlord;
- (5) bound by any covenant in the Lease to either (i) undertake or complete any construction of, in or about the Building (or any part thereof) or the Premises (or any part thereof), other than with respect to any obligation to restore the Premises in the event of casualty or condemnation, in which case Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall be so obligated provided each of the conditions set forth in Schedule E hereof has been satisfied; or (ii) provide any money or credit or concession, by way of an allowance to Tenant or otherwise, to or for any such construction;
- (6) required to account for any security deposit other than the unapplied portion of any security deposit actually delivered to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be);
- (7) bound by any amendment, or modification or surrender of the Lease, made after the date hereof, to which Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall not have given its consent in writing; and
- (8) required to remove any person occupying the Premises (or any part thereof).

8. If Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall succeed to the interest of the landlord under the Lease by reason of a termination of the Retail Sublease pursuant to the terms thereof, then, from and after such termination and the attornment pursuant to Paragraph 5 hereof throughout the balance of the term of the Lease, including any renewals, Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall not be bound by (or have any obligation or liability in respect of) any terms and provisions of the Lease which grant Tenant any rights or impose upon the landlord under the Lease any obligations, which, in either case, involve any property other than the Premises or any portions of the Building serving the Premises, whether or not Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) has legal access and control over such areas.

9. Tenant, upon receipt of notice from Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) of Retail Subtenant's default under the Retail Sublease, shall pay all Rents (as defined in the Lease) to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be). Tenant shall have the right to rely upon any such notice of Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be), without any obligation to inquire as to the actual existence of the default, notwithstanding any claim of Landlord to the contrary. Landlord shall have no claim against Tenant for any Rent paid by Tenant to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be). If, as and when all defaults of Retail Subtenant under the Retail Sublease shall be cured, Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall give Tenant written notice of

such cure and, thereafter, until further notice from Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be), Tenant shall pay the Rent to Retail Subtenant.

10. Upon the due execution and delivery of this Agreement by the parties hereto, all conditions and requirements in the Lease relating to the granting of a non-disturbance agreement shall be satisfied.

11. This Agreement may not be modified except by an agreement in writing signed by the parties or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns.

12. All notices, demands or requests made pursuant to, under, or by virtue of this Agreement must be in writing and delivered to the party to whom the notice, demand or request is being made by personal delivery with receipt acknowledged or by mailing the same by certified mail, postage prepaid, return receipt requested, or by Federal Express or other reputable national overnight courier service: (a) if to Ground Lessor, at the address set forth above, with a copy to Battle Fowler LLP, 75 East 55th Street, New York, New York 10022, Attention: Michael A. Mishan, Esq.; (b) if to Ground Lessee or Retail Subtenant, at the address set forth above, Attention: General Counsel, with a copy to Winthrop Stimson Putnam & Roberts, One Battery Park Plaza, New York, New York 10004, Attention: Stephen A. Lefkowitz, Esq.; (c) if to Tenant, at address set forth above, Attention: [], with a copy to [Legal Counsel]; or to such other address as any party may from time to time designate by notice given to the other parties in the manner herein provided at least fifteen (15) days prior to such address becoming effective.

13. This Agreement shall be governed by the laws of the State of New York. If any term of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable of such term to any person or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. Unless otherwise indicated, all capitalized terms used herein which are not herein defined shall have the meanings ascribed thereto in the Lease.

15. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same Agreement.

16. All capitalized terms used herein which are not herein defined shall have the meanings ascribed thereto in the Lease.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Agreement to be duly executed as of the day and year first above written.

BATTERY PARK CITY AUTHORITY

By: _____
Name: John La Mura
Title: President and Chief Executive Officer

BPC SITE 25 ASSOCIATES, LLC

By: FC Battery Park Associates, LLC

By: RRG Battery Park LLC

By: _____
Name: David Berliner
Title: Senior Vice President

By: BPC Hotel, LLC

By: FCDT-BPC Corp.

By: _____
Name: David Berliner
Title: Senior Vice President

FC BATTERY PARK ASSOCIATES, LLC

By: RRG Battery Park, LLC

By: _____
Name: David Berliner
Title: Senior Vice President

SCHEDULE A

Description of Ground Lease

SCHEDULE B

Description of Retail Complex

SCHEDULE C

Description of Premises of Tenant

SCHEDULE D

Lease, Lease Modification(s), Prepayment and Defaults

SCHEDULE E

Conditions to Restoration Obligation

1. Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) actually receives sufficient insurance proceeds or condemnations awards to pay for such restoration.
2. Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) elects to perform restoration of the Hotel pursuant to a Sublease dated as of _____ (as the same may have heretofore been, or may hereafter, be extended, renewed or amended) (the "Hotel Sublease") and the party who manages the daily operations of the Hotel (the "Hotel Operator") agrees to operate (or, as the case may be, continue to operate) the Hotel upon restoration.
3. Such restoration is not prohibited or restricted under any law or regulation, including applicable zoning requirements.
4. Given the reasonable anticipated time required for such restoration, the obligation of subtenants of the Retail Complex occupying at least eighty percent (80%) of the square footage of the Retail Complex, in all events including the tenant (and operator) of the movie theater located within the Retail Complex, to continue in occupancy of their respective premises for at least three (3) years following restoration.
5. Such casualty or condemnation occurring not later than thirty-six (36) months prior to the date set forth in the Lease for the expiration of the terms.
6. The deposit by Tenant with a depository reasonable satisfactory to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) of funds equal to the replacement cost of all improvements made by Tenant as of the date of the casualty or condemnation.
7. A written reaffirmation addressed to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) by Tenant of all of its obligations under the Lease and the delivery of evidence to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) of the continued creditworthiness of Tenant and any guarantor of the Lease to the reasonable satisfaction of Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be).
8. Notwithstanding the satisfaction of the conditions listed in Nos. 1 through 7 above, the election by Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) to proceed with such restoration rather than pay to Tenant the difference between the unamortized value of Tenant's improvements lost in such casualty or condemnation and the insurance proceeds or condemnation award applicable to Tenant's improvements and received by Tenant therefor.

EXHIBIT G

[FORM OF SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT (THEATER OPERATOR)]

SUBORDINATION NON-DISTURBANCE
AND ATTORNMENT AGREEMENT

THIS SUBORDINATION NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement"), made as of the ____ day of _____, 1998, among BATTERY PARK CITY AUTHORITY, a body corporate and politic constituting a public benefit corporation of the State of New York having an office at One World Financial Center, New York, New York 10281 ("Master Landlord"); FC BATTERY PARK ASSOCIATES, LLC, a New York limited liability company having an office c/o Forest City Ratner Companies, 1 Metrotech Center North, Brooklyn, New York 11201 ("Landlord"); and REGAL CINEMAS, INC., a Tennessee corporation having an office at 7132 Commercial Park Drive, Knoxville, Tennessee 37918 ("Tenant").

W I T N E S S E T H:

WHEREAS, pursuant to the Master Lease (more specifically identified on Schedule 1 annexed hereto), Master Landlord holds a leasehold interest in the land described on Schedule A annexed hereto (the "Master Lease Land"); and

WHEREAS, Master Landlord is the landlord under a certain Agreement of Lease dated as of the date hereof (as the same may have heretofore been, or may hereafter be, extended, renewed or amended in accordance with Section 19.1(b) of the Lease, the "Ground Lease"), between Master Landlord, as landlord, and BPC Site 25 Associates, LLC, as tenant ("Master Tenant"), demising a portion of the Master Lease Land, known as Site 25, and more specifically described on Schedule A-1 annexed hereto (the "Land"); and

WHEREAS, as set forth in the Ground Lease, Master Tenant has agreed to construct a building on the Land (the "Building"); and

WHEREAS, pursuant to a Sublease dated as of the date hereof (as the same may have heretofore been, or may hereafter, be extended or renewed (or amended to the extent that such amendment is in compliance with Section 19.1(b) of the Lease as hereinafter defined) the "Retail Sublease"), Master Tenant has subleased to Landlord certain premises to be constructed on the Land (such premises, as defined in the Ground Lease, the "Retail Complex"); and

WHEREAS, pursuant to a Sublease dated as of the date hereof (as the same may have heretofore been, or may hereafter, be extended, renewed or amended (the "Hotel Sublease"), Master Tenant has subleased certain other premises to be constructed to Landlord (such premises, as defined in the Ground Lease, the "Hotel"); and

WHEREAS, the Ground Lease contemplates either (i) the exercise by Master Tenant of an option (the "Condominium Option") to subject its leasehold interest thereunder to a condominium regime by filing a Declaration of Condominium or (ii) the execution and delivery by the tenant under the Retail Sublease and the tenant under the Hotel Sublease of a Reciprocal Easement Agreement and in either case, the assignment by Master Tenant of its interest in the Ground Lease to Master Landlord, in which case Master Landlord shall hold both the interest of

landlord and tenant under the Ground Lease, as well as the interest of landlord under the Retail Sublease and the Hotel Sublease; and

WHEREAS, upon the exercise of the Condominium Option or the Substantial Completion of the Building, the Retail Sublease shall be amended to reflect the construction of the Retail Complex (as so amended, the "Severance Lease" of the Retail Sublease); and the Severance Lease together with the Master Lease, Ground Lease and Retail Sublease shall together constitute, the "Senior Leases"; and

WHEREAS, Tenant has entered into a certain Agreement of Lease dated as of April 20, 1998 (as the same may have heretofore been, or may hereafter be, amended, extended or renewed, the "Lease") between Landlord, as landlord, and Tenant, as tenant, demising a portion of the Retail Complex for use as a multiplex cinema (the "Premises"); and

WHEREAS, as a material inducement to Tenant to enter into the Lease, Tenant has requested, and Master Landlord has agreed, upon any succession to the rights of Landlord under the Lease, to refrain from disturbing Tenant's tenancy thereunder on the terms set forth herein.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration the receipt and sufficiency of which are hereby conclusively acknowledged, the parties hereto agree as follows:

1. The agreements and obligations of Master Landlord set forth herein are expressly subject to and shall be of no force or effect until such time as the Delivery Date has occurred and the Premises have been delivered to Tenant in accordance with the Lease. Upon the occurrence of the Delivery Date, Master Landlord agrees to execute a Delivery Date Certificate acknowledging that (a) the Delivery Date has occurred under the Lease, (b) the conditions of this paragraph have been fully satisfied, and (c) Master Landlord's obligations hereunder are no longer subject to the conditions set forth in this paragraph. Landlord agrees that Tenant's construction period under the Lease shall not commence and Tenant shall not be required to perform any work on the Premises until Tenant has received the aforesaid Delivery Date Certificate from Master Landlord.

2. Tenant covenants and agrees that the Lease is, and shall at all times continue to be, subject and subordinate in each and every respect to the Master Lease, Ground Lease, Retail Sublease and the Severance Lease, except as provided in this Agreement, and except that this subordination shall not result in any change in the terms of the Lease. The provisions of this Paragraph 2 shall be self-operative and no further instrument shall be required. Tenant, upon request, shall execute and deliver any certificate or other instrument which the Master Landlord may reasonably request to confirm said subordination by Tenant.

3. Landlord and Tenant hereby certify to Master Landlord as follows: (a) that the Lease is in full force and effect and, except as provided in Schedule B annexed hereto, the Lease is unmodified; (b) that no Fixed Minimum Rent payable thereunder has been paid more

than one (1) month in advance of its due date; (c) that, except as provided in Schedule B annexed hereto, no default of Tenant exists under the Lease which has continued beyond the expiration of any applicable notice and grace period; and (d) that, except as provided in Schedule B annexed hereto, no default of Landlord exists under the Lease which has continued beyond the expiration of any applicable notice and grace period.

4. If any act or omission of Landlord would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate the Lease, or to abate or offset against the payment of Fixed Minimum Rent, Percentage Rent or Additional Charges or to claim a partial or total eviction, Tenant shall not exercise such right until (a) it has given written notice of such act or omission to Master Landlord and (b) a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice. Said reasonable period of time shall include a reasonable period of time for Master Landlord to become entitled under the Retail Sublease to remedy Landlord's act or omission, but shall in no event be less than the period to which Landlord would be entitled under the Lease or otherwise, after similar notice, to effect such remedy, plus thirty (30) days.

5. (a) Subject to the terms of subparagraph 5(b) and provided Tenant shall not be in default beyond the expiration of any applicable grace period in the payment of rent or additional rent or in the performance of any of the other material terms, covenants, conditions, and provisions on its part to be performed under the Lease, (i) in the event of the termination of any of the Senior Leases (by surrender, cancellation, default, or for any other reason other than a termination in connection with cancellation right granted to the landlord under such Senior Lease in connection with a casualty or condemnation), such termination shall not result in the cancellation or termination of the Lease, and, except as may be necessary to fulfill any legal requirements, Tenant will not be named or joined in connection with any action or proceeding by Master Landlord to terminate any Senior Lease or enforce any Senior Lease, and (ii) no default under any Senior Lease, as same may be amended, modified, or renewed, and no action or proceeding by Master Landlord that shall result in a cancellation or termination of any Senior Lease, will disturb Tenant's possession under the Lease, and the Lease will not be cut off or affected thereby.

(b) In the event of a termination of any of the Senior Leases in connection with a cancellation right granted to any party under such Senior Lease in connection with a casualty or condemnation, Master Landlord shall pay to Tenant promptly following such termination the unamortized value of tenant improvements to the extent sufficient insurance proceeds or condemnation awards are actually received in respect thereof by Master Landlord. For purposes of determining whether "sufficient insurance proceeds or condemnation awards" have been received by Master Landlord for purposes of the preceding sentence (i) the insurance proceeds to be considered shall be limited to that portion of the Building as Landlord is obligated to insure pursuant to the Lease and (ii) the condemnation awards to be considered shall be limited to that portion attributable to the Building. No part of the condemnation award attributable to the Land shall be paid to Tenant. If the insurance proceeds or condemnation awards are insufficient to cover the unamortized value of the tenant improvements, provided that the conditions set forth in clauses (I) and (II) of Paragraph 7(e) have been satisfied, Tenant may require the restoration of the Premises only if: (1) such casualty or condemnation shall have

occurred during the first seventeen years of the term of the Lease and (2) Tenant shall fund the cost (the "Excess Restoration Cost") of such restoration to the extent same exceeds the insurance proceeds or condemnation awards paid over to Tenant pursuant to this sub-paragraph (b); provided, however, that Tenant shall be entitled to offset such Excess Restoration Costs, together with interest at an annual rate of ten percent (10%) thereon, against its base or fixed rent under the Lease, such offset not to exceed twenty-five percent (25%) of the aggregate rent due in any month, it being agreed that any unutilized offset may be carried over and offset during subsequent years, on a monthly basis as aforesaid, until Tenant has offset the full amount which Tenant is entitled to offset.

6. If Master Landlord shall succeed to the interest of the Landlord under the Lease by reason of a termination of any Senior Lease, Tenant shall attorn to and recognize the Master Landlord, as the landlord under the Lease and Master Landlord shall recognize Tenant as the tenant under the Lease, upon all of the terms, covenants and conditions of the Lease for the balance of the term thereof, subject, however, to the provisions of Paragraphs 7 and 8 hereof. The attornment under this Paragraph 6 shall be effective and self-operative, without the execution of any further instruments, upon such termination of any Senior Lease. Tenant, upon request, shall execute and deliver any certificate or other instrument which the Master Landlord may reasonably request to confirm such attornment by Tenant. Tenant and Master Landlord hereby waive the provisions of any statute or rule of law now or hereafter in effect that may give or purport to give Tenant or Master Landlord any right or election to terminate or otherwise adversely affect the Lease or the obligations of Tenant and Master Landlord thereunder by reason of any termination of any Senior Lease.

7. In the event of the termination of (a) any Senior Lease, or (b) if Master Landlord acquires or otherwise succeeds to the interest of the Landlord under the Lease, the Lease will be recognized as a direct lease from Master Landlord to Tenant, Tenant shall attorn to Master Landlord, and Master Landlord shall accept such attornment; provided that Master Landlord shall not be:

(a) liable for any previous act or omission of any prior landlord under the Lease (each, a "Prior Landlord");

(b) responsible for any monies owing by any Prior Landlord to the credit of Tenant;

(c) subject to any offsets, claims, counterclaims, demands or defenses which Tenant may have against any Prior Landlord (provided, however, that to the extent expressly set forth in the Lease, Master Landlord shall be liable for any offsets, claims, counterclaims, demands or defenses which Tenant may have against Master Landlord arising from and after the date that Master Landlord acquires or otherwise succeeds to the interest of Landlord under the Lease);

(d) bound by any payments of rent which Tenant might have made for more than one (1) month in advance to any Prior Landlord;

(e) bound by any covenant in the Lease to either (i) undertake or complete any construction of, in or about the Building (or any part thereof) or the Premises (or any part thereof), which Landlord is required to perform prior to the "Delivery Date" as set forth in Section 6.1(d) of the Lease or in respect of post "Delivery Date" work relating to escalator and elevator installation, as described in the Lease, or (ii) provide any money or credit or concession, by way of an allowance to Tenant or otherwise, to or for any such construction to be performed by or for the benefit of Tenant; provided, however, that if Tenant shall complete such escalator and elevator installation, Tenant shall be entitled to offset the costs of completing such Landlord Work (the "Completion Costs"), together with interest at an annual rate of ten percent (10%) thereon, against its base or fixed rent under the Lease, such offset of the Completion Costs during any month not to exceed twenty-five percent (25%) of the aggregate rent due in any month, it being agreed that any unutilized offset may be carried over and offset during subsequent years until Tenant has offset the full amount which Tenant is entitled to offset;

(f) bound by any covenant in the Lease to either (i) restore the Building (or any part thereof) or the Premises (or any part thereof), or (ii) provide any money or credit or concession, by way of an allowance to Tenant or otherwise, to or for any such restoration; provided, however, that in the event of any casualty or condemnation of the Premises or any portion of the Building serving the Premises where there are at least three (3) years remaining on the initial term of the Lease, Master Landlord shall perform such restoration work as is required by the Lease so long and to the extent that (I) Master Landlord (or the then landlord under the Hotel Sublease) has elected to restore the Hotel, such determination to be made in its sole discretion, and (II) Tenant has reaffirmed all of its obligations under the Lease in a writing addressed to Master Landlord;

(g) required to account for any security deposit other than the unapplied portion of any security deposit actually delivered to Master Landlord;

(h) bound by any amendment, other modification or surrender of the Lease, made after the date hereof, to which Master Landlord shall not have given its consent in writing (provided that communications between Landlord and Tenant of an administrative nature relating to the ordinary course of operation or tenancy of the Premises that do not purport to be amendments or modifications of the Lease and do not materially affect the rights of Landlord and Tenant shall not be deemed amendments or modifications for purposes of the foregoing); and

(i) required to remove any person occupying the Premises (or any part thereof).

Notwithstanding subparagraph 7(f) above, in the event that Master Landlord does not commence the restoration work identified in the proviso therein within ninety (90) days from the date of such casualty or condemnation, (I) Tenant shall have the right to terminate the lease upon thirty (30) days' notice to Master Landlord, (II) Master Landlord shall

pay to Tenant the unamortized costs of tenant improvements in accordance with subparagraph 5(b) hereof, and (III) Master Landlord shall not enter into another lease of comparable space in any building to be located on the site of the Building for the development of a multi-screen theater without first offering Tenant the opportunity to enter into such lease on the terms of the Lease, such right of first offer to expire on the fifth (5th) anniversary of such casualty or condemnation.

8. If Master Landlord shall succeed to the interest of the landlord under the Lease by reason of a termination of the Retail Sublease or the Severance Lease pursuant to the terms thereof, then, from and after such termination and the attornment pursuant to Paragraph 6 hereof throughout the balance of the term of the Lease, including any renewals, Master Landlord shall not be bound by (or have any obligation or liability in respect of) any terms and provisions of the Lease which grant Tenant any rights or impose upon the landlord under the Lease any obligations, which, in either case, involve any property other than the Premises or any portions of the Building serving the Premises, or the land on which the Building is located; provided, however, Master Landlord shall, subject to the terms elsewhere contained in this Agreement (including without limitation Paragraph 7 hereof), be bound and obligated to the extent Master Landlord has legal access and control over such other areas.

9. If Master Landlord shall succeed to the interest of the landlord under the Lease by reason of a termination of the Retail Sublease or the Severance Lease pursuant to the terms thereof, then, from and after such termination and the attornment pursuant to Paragraph 6 hereof and in furtherance of Tenant's election to complete certain escalator and elevator installation, as contemplated by subparagraph 7(e) above, Master Landlord shall cooperate, at Tenant's cost and expense, with Tenant's efforts to obtain required licenses, permits, approvals and/or certificates, to the extent in Master Landlord's possession, but without warranty or representation, provide access to all construction plans and specifications, and grant Tenant access to the Project and the Common Areas at reasonable times and in a manner as is reasonably necessary for Tenant to complete such work, provided Tenant obtains the insurance required under the Retail Sublease or the Severance Lease on the landlord's part to be obtained and otherwise satisfies the requirements of the Ground Lease pertaining to the performance of that work.

10. Tenant, upon receipt of notice from Master Landlord of Landlord's default under the Retail Sublease or the Severance Lease, shall pay all Rents (as defined in the Lease) to Master Landlord provided that all of Landlord's obligations under the Lease are being performed by Master Landlord as set forth hereunder. Tenant shall have the right to rely upon any such notice of Master Landlord, without any obligation to inquire as to the actual existence of the default, notwithstanding any claim of Landlord to the contrary. Landlord shall have no claim against Tenant for any Rent paid by Tenant to Master Landlord. If, as and when all defaults of Landlord under the Severance Lease shall be cured, Master Landlord shall give Tenant written notice of such cure and, thereafter, until further notice from Master Landlord, Tenant shall pay the Rent to Landlord.

11. Landlord and Tenant agree that upon the due execution of this Agreement by Master Landlord and Landlord and the delivery of this Agreement to Tenant, all conditions

and requirements in the Lease relating to the granting of a non-disturbance agreement by the Master Landlord shall be satisfied.

12. This Agreement may not be modified except by an agreement in writing signed by the parties or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns.

13. All notices, demands or requests made pursuant to, under, or by virtue of this Agreement must be in writing and delivered to the party to whom the notice, demand or request is being made by personal delivery with receipt acknowledged or by mailing the same by certified mail, postage prepaid, return receipt requested, or by Federal Express or other reputable national overnight courier service: (a) if to Master Landlord, at the address set forth above, with a copy to Battle Fowler LLP, 75 East 55th Street, New York, New York 10022, Attention: Martin L. Edelman, Esq.; (b) if to Tenant, at the address set forth above, Attention: R. Keith Thompson, Senior Vice President, with a copy to Herbert S. Sanger, Jr., Esq., Wagner Myers & Sanger, 800 South Gay Street, Suite 1801, Knoxville, Tennessee 37901-1308; or, (c) if to Landlord, at the address set forth above, Attention: General Counsel, with a copy to Winthrop Stimson Putnam & Roberts, One Battery Park Plaza, New York, New York 10004, Attention: Stephen A. Lefkowitz, Esq., or to such other address as any party may from time to time designate by notice given to the other parties in the manner herein provided at least fifteen (15) days prior to such address becoming effective.

14. This Agreement shall be governed by the laws of the State of New York. If any term of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable of such term to any person or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

15. Unless otherwise indicated, all capitalized terms used herein which are not herein defined shall have the meanings ascribed thereto in the Lease.

16. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same Agreement.

17. By its countersignature below, Master Tenant hereby (i) waives any rights it may have to notice or cure with respect to any default of Landlord under the Lease, it being acknowledged that upon such default, Master Landlord shall have all such rights pursuant to Paragraph 4 hereof, and (ii) agrees that until such time as Master Landlord shall hold the interest of landlord under the Retail Sublease (or Severance Lease, as the case may be), Master Tenant shall have all of the rights and obligations of Master Landlord under this Agreement (other than the rights of Master Landlord pursuant to Paragraph 4 hereof, which rights shall be exercisable by Master Landlord from and after the date hereof).

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Agreement to be duly executed as of the day and year first above written.

BATTERY PARK CITY AUTHORITY

By: _____
Name:
Title:

FC BATTERY PARK ASSOCIATES, LLC

By: RRG Battery Park, Inc., Member

By: _____
Name:
Title:

REGAL CINEMAS, INC.

By: _____
Name:
Title:

With respect to Paragraphs 1 and 17 hereof:

BPC SITE 25 ASSOCIATES, LLC

By: BPC HOTEL, LLC

By: FCDT-BPC CORP., its managing member

By: _____
Name:
Title:

By: FC BATTERY PARK ASSOCIATES, LLC

By: RRG-BATTERY PARK, LLC, its managing member

By: _____
Name:
Title:

SCHEDULE 1

CERTAIN DEFINITIONS

"Master Lease" shall mean the Restated Amended Agreement of Lease, made as of June 10, 1980, between BPC Development Corporation, as landlord, and Battery Park City Authority, as tenant, a Memorandum of which was recorded on June 11, 1980 in the Office of the City Register, New York County in Reel 527 at page 163, as amended by First Amendment to Restated Amended Lease dated as of June 15, 1983 and recorded on June 20, 1983 in said Register's Office in Reel 696 at page 424, Second Amendment to Restated Amended Lease dated June 15, 1983 and recorded on June 20, 1983 in said Register's Office in Reel 696 at page 432, Third Amendment to Restated Amended Lease dated as of August 15, 1986 and recorded on October 22, 1986 in said Register's Office in Reel 1133 at page 569 and Fourth Lease Amendment to Restated Amended Lease dated as of May 25, 1990 and recorded on May 30, 1990 in said Register's Office in Reel 1697 at page 307, as the same may be hereafter amended, modified or supplemented.

SCHEDULE A

DESCRIPTION OF MASTER LEASE LAND

SCHEDULE A-1

DESCRIPTION OF LAND

SCHEDULE B

EXHIBIT H

[FORM OF SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT (RESTAURANT OPERATOR)]

EXHIBIT __

SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT (RESTAURANT)

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement"), made as of the ____ day of _____, 1998, among BATTERY PARK CITY AUTHORITY, a body corporate and politic constituting a public benefit corporation of the State of New York having an office at One World Financial Center, New York, New York 10281 ("Ground Lessor"); BPC SITE 25 ASSOCIATES, LLC, a New York limited liability company having an office c/o Forest City Ratner companies, 1 MetroTech Center North, Brooklyn, New York 11201 ("Ground Lessee"); FC BATTERY PARK ASSOCIATES, LLC, a New York limited liability company having an office c/o Forest City Ratner Companies, 1 MetroTech Center North, Brooklyn, New York 11201 ("Retail Subtenant"); and [Larry Forgione entity], a [legal structure, i.e., corporation, partnership] having an office at [address] ("Tenant").

WITNESSETH:

WHEREAS, pursuant to that certain Ground Lease dated as of _____, 1998 between Ground Lessor and Ground Lessee (such lease, as the same may be assigned, amended or restated from time to time, the "Ground Lease"), Ground Lessor leased to Ground Lessee the land described in Schedule A attached hereto and the improvements to be constructed thereon (collectively, the "Ground Lease Premises");

WHEREAS, pursuant to that certain Retail Sublease dated as of _____, 1998 between Ground Lessee and Retail Subtenant (such lease, as the same may be amended or restated from time to time, the "Retail Sublease"), Ground Lessee leased to Retail Subtenant that portion of the Ground Lease Premises which is described in Schedule B attached hereto (the "Retail Complex");

WHEREAS, pursuant to that certain Lease dated as of _____, 19__ between Retail Subtenant and Tenant (such lease, as the same may be amended or restated from time to time, the "Restaurant Lease"), Retail Subtenant leased to Tenant that portion of the Retail Complex which is described in Schedule C attached hereto (such premises, the "Restaurant");

WHEREAS, the Ground Lease provides (and Ground Lessor and Ground Lessee contemplate) that, following substantial completion of construction of the building of which the Restaurant is a part (the "Building"), Ground Lessee will condominiumize (or effect a "common law" condominium of) the Building and assign its tenant's interest under the Ground Lease to Ground Lessor, with the result that (i) the Ground Lease (which provides that it will not merge if Ground Lessee assigns its tenant's estate to Ground Lessor) shall be between Ground Lessor, as landlord, and Ground Lessor, as tenant, and (ii) the Retail Sublease shall be between Ground

Lessor (as successor in interest to Ground Lessee), as landlord, and Retail Subtenant, as tenant; and

WHEREAS, Tenant has requested and the Ground Lessor, Ground Lessee, and Retail Subtenant have agreed, that this Agreement be executed and delivered in consideration for Tenant's execution and delivery of the Restaurant Lease.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration the receipt and sufficiency of which are hereby conclusively acknowledged, the parties hereto agree as follows:

1. The agreements and obligations of Ground Lessee (or of Ground Lessor, as successor-in-interest to Ground Lessee as tenant under the Ground Lease) set forth herein shall be of no force or effect until (and are expressly contingent upon the occurrence of): (x) Substantial Completion of the Building (as defined in the Ground Lease), (y) delivery of the Premises by Hotel Subtenant to Tenant and (z) completion by (or on behalf of) Retail Subtenant of all work required under the Lease to be performed by the date on which the Premises are delivered by Retail Subtenant to Tenant (in accordance with the relevant provisions of the Lease).

2. Tenant covenants and agrees that the Restaurant Lease is, and shall at all times continue to be, subject and subordinate in each and every respect to the Ground Lease and the Retail Sublease. Tenant, upon request, shall execute and deliver any certificate or other instrument which the Ground Lessor, Ground Lessee or Retail Subtenant may reasonably request to confirm said subordination by Tenant.

3. Tenant hereby certifies to Ground Lessor, Ground Lessee and Retail Subtenant as follows: (a) that the Restaurant Lease, a true and correct copy of which is annexed hereto in Schedule D, is in full force and effect and, except as provided in Schedule D annexed hereto, the Restaurant Lease is unmodified; (b) that no [fixed rent – reference lease's defined terms] payable thereunder has been paid more than one (1) month in advance of its due date; (c) that, except as provided in Schedule D annexed hereto, no default of Tenant exists under the Restaurant Lease which has continued beyond the expiration of any applicable notice and grace period; and (d) that, except as provided in Schedule D annexed hereto, no default of Retail Subtenant exists under the Restaurant Lease which has continued beyond the expiration of any applicable notice and grace period.

4. If any act or omission of Retail Subtenant would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate the Restaurant Lease, or to abate or offset against the payment of [fixed rent, percentage rent, additional rent or charges – reference lease's defined terms], or to claim a partial or total eviction, or to exercise any right of self-help under its Lease, Tenant shall not exercise such right until (a) it has given written notice of such act or omission to Ground Lessee (or to Ground Lessor, as successor-in-interest to Ground Lessee's interest under the Ground Lease) and (b) a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice. Said reasonable period of time shall include a reasonable period of time for Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee's interest under the Ground Lease) to become entitled under the Retail Sublease to remedy Retail Subtenant's act or omission, but shall in no event be

less than the period to which Retail Subtenant would be entitled under the Restaurant Lease or otherwise, after similar notice, to effect such remedy, plus thirty (30) days.

5. Provided that Tenant shall not be in default beyond the expiration of any applicable grace period in the payment of rent or additional rent or in the performance of any of the other material terms, covenants, conditions, and provisions on its part to be performed under the Restaurant Lease, (a) in the event of the termination of the Retail Sublease, or in the event of the termination of the Retail Sublease and the Ground Lease (in each case, whether by surrender, cancellation, default, or for any other reason other than a termination in connection with any cancellation right granted to the landlord under the Retail Sublease or the Ground Lease in connection with a casualty or condemnation), such termination shall not result in the cancellation or termination of the Restaurant Lease, and, except as may be necessary to fulfill any legal requirements, Tenant will not be named or joined in connection with any action or proceeding by Ground Lessee (or Ground Lessor, as its successor-in-interest) to terminate or enforce the Retail Sublease or by Ground Lessor to terminate or enforce the Ground Lease, (b) no default under the Retail Sublease and no action or proceeding by Ground Lessee (or by Ground Lessor, as its successor-in-interest) that shall result in a cancellation or termination of the Retail Sublease will disturb Tenant's possession under the Restaurant Lease, and the Restaurant Lease will not be cut off or affected thereby and (c) no default under the Ground Lease, and no action or proceeding by Ground Lessor that shall result in a cancellation or termination of the Ground Lease will disturb Tenant's possession under the Restaurant Lease, and the Restaurant Lease will not be cut off or be affected thereby.

6. If Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee following the assignment by Ground Lessee to Ground Lessor of Ground Lessee's tenant's interest under the Ground lease) succeeds to the interest of landlord under the Restaurant Lease (by reason of a termination of the Retail Sublease or otherwise), Tenant shall attorn to and recognize Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) as the landlord under the Restaurant Lease, and Ground Lessee or Ground Lessor, as successor-in-interest to Ground Lessee as the case may be, shall recognize such attornment, all upon all of the executory terms, covenants and conditions of the Restaurant Lease for the balance of the term thereof, subject, however, to the provisions of paragraphs 6 and 7 hereof. The attornment under this Paragraph 5 shall be effective and self-operative without the execution of any further instruments, upon such termination of the Retail Sublease. Tenant, upon request, shall execute and deliver any certificate or other instrument which the Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) may reasonably request to confirm such attornment by Tenant. Tenant and Ground Lessee hereby waive the provisions of any statute or rule of law now or hereafter in effect that may give or purport to give Tenant any right or election to terminate or otherwise adversely affect the Restaurant Lease or the obligations of Tenant thereunder by reason of any termination of the Retail Sublease.

7. Notwithstanding the aforesaid agreement of Ground Lessee (or of Ground Lessor, as successor-in-interest to Ground Lessee, as aforesaid) to recognize the Restaurant Lease upon a termination of the Retail Sublease, and notwithstanding the aforesaid agreement of Tenant to attorn to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be), the parties hereto agree that Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall not be:

- (1) liable for any previous act or omission of any prior landlord under the Restaurant Lease (each, a "Prior Landlord");
- (2) responsible for any monies owing by any Prior Landlord to the credit of Tenant;
- (3) subject to any offsets, claims, counterclaims, demands or defenses which Tenant may have against any Prior Landlord;
- (4) bound by any payments of rent, additional rent or other charges which Tenant might have made for more than one (1) month in advance to any Prior Landlord;
- (5) bound by any covenant in the Restaurant Lease to either (i) undertake or complete any construction of, in or about the Building (or any part thereof) or the Restaurant (or any part thereof), other than with respect to any obligation to restore the Restaurant in the event of casualty or condemnation, in which case Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall be so obligated provided each of the conditions set forth in Schedule E hereof has been satisfied; provided if Ground Lessee or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be, fails to restore the Restaurant following any casualty or condemnation for any reason, then Tenant shall have the right to terminate the Restaurant Lease and Ground Lessor or Ground Lessee shall pay to Tenant, promptly following such termination, the unamortized value (determined using the shortest amortization schedule permitted by the generally accepted accounting principles applicable to such property) of the tenant improvements lost in such casualty or condemnation; or (ii) provide any money or credit or concession, by way of an allowance to Tenant or otherwise, to or for any such construction;
- (6) required to account for any security deposit other than the unapplied portion of any security deposit actually delivered to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be);
- (7) bound by any amendment, or modification or surrender of the Restaurant Lease, made after the date hereof, to which Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall not have given its consent in writing; and
- (8) required to remove any person occupying the Restaurant (or any part thereof).

8. If Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall succeed to the interest of the landlord under the Restaurant Lease by reason of a termination of the Retail Sublease pursuant to the terms thereof, then, from and after such termination and the attornment pursuant to Paragraph 5 hereof throughout the balance of the term of the Restaurant Lease, including any renewals, Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall not be bound by (or

have any obligation or liability in respect of) any terms and provisions of the Restaurant Lease which grant Tenant any rights or impose upon the landlord under the Restaurant Lease any obligations, which, in either case, involve any property other than the Restaurant or any portions of the Building serving the Restaurant, whether or not Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) has legal access and control over such areas.

9. Tenant, upon receipt of notice from Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) of Retail Subtenant's default under the Retail Sublease, shall pay all Rents (as defined in the Restaurant Lease) to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be). Tenant shall have the right to rely upon any such notice of Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be), without any obligation to inquire as to the actual existence of the default, notwithstanding any claim of Landlord to the contrary. Landlord shall have no claim against Tenant for any Rent paid by Tenant to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be). If, as and when all defaults of Retail Subtenant under the Retail Sublease shall be cured, Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) shall give Tenant written notice of such cure and, thereafter, until further notice from Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be), Tenant shall pay the Rent to Retail Subtenant.

10. Upon the due execution and delivery of this Agreement by the parties hereto, all conditions and requirements in the Restaurant Lease relating to the granting of a non-disturbance agreement shall be satisfied.

11. This Agreement may not be modified except by an agreement in writing signed by the parties or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns.

12. All notices, demands or requests made pursuant to, under, or by virtue of this Agreement must be in writing and delivered to the party to whom the notice, demand or request is being made by personal delivery with receipt acknowledged or by mailing the same by certified mail, postage prepaid, return receipt requested, or by Federal Express or other reputable national overnight courier service: (a) if to Ground Lessor, at the address set forth above, with a copy to Battle Fowler LLP, 75 East 55th Street, New York, New York 10022, Attention: Michael A. Mishan, Esq.; (b) if to Ground Lessee or Retail Subtenant, at the address set forth above, Attention: General Counsel, with a copy to Winthrop Stimson Putnam & Roberts, One Battery Park Plaza, New York, New York 10004, Attention: Stephen A. Lefkowitz, Esq.; (c) if to Tenant, at address set forth above, Attention: [], with a copy to [Legal Counsel]; or to such other address as any party may from time to time designate by notice given to the other parties in the manner herein provided at least fifteen (15) days prior to such address becoming effective.

13. This Agreement shall be governed by the laws of the State of New York. If any term of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable of such term to any person or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. Unless otherwise indicated, all capitalized terms used herein which are not herein defined shall have the meanings ascribed thereto in the Restaurant Lease.

15. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same Agreement.

16. All capitalized terms used herein which are not herein defined shall have the meanings ascribed thereto in the Lease.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Agreement to be duly executed as of the day and year first above written.

BATTERY PARK CITY AUTHORITY

By: _____
Name:
Title:

BPC SITE 25 ASSOCIATES, LLC

By: FC Battery Park Associates, LLC

By: RRG Battery Park, LLC

By: _____
Name: Bruce Ratner
Title:

FC BATTERY PARK ASSOCIATES, LLC

By: RRG Battery Park, LLC

By: _____
Name: Bruce Ratner
Title:

[LARRY FORGIONE ENTITY]

By: _____
Name:
Title:

SCHEDULE A

Description of Ground Lease Premises

SCHEDULE B
Description of Retail Complex

SCHEDULE C
Description of Restaurant

SCHEDULE D

Lease, Lease Modification(s), Prepayment and Defaults

SCHEDULE E

Conditions to Restoration Obligation

1. Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) actually receives sufficient insurance proceeds or condemnations awards to pay for such restoration.
2. Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) elects to perform restoration of the Hotel and the party who manages the daily operations of the Hotel agrees to operate (or, as the case may be, continue to operate) the Hotel upon restoration.
3. Given the reasonable anticipated time required for such restoration, the obligation of subtenants of the Retail Complex occupying at least eighty percent (80%) of the square footage of the Retail Complex, in all events including the tenant (and operator) of the movie theater located within the Retail Complex, to continue in occupancy of their respective premises for at least three (3) years following restoration. The foregoing requirement shall not apply, however, if Tenant shall continue following the casualty to provide food and beverage services for the hotel located within the Building.
4. Such restoration is not prohibited or restricted under any law or regulation, including applicable zoning requirements.
5. Such casualty or condemnation occurring not later than thirty-six (36) months prior to the date set forth in the Restaurant Lease for the expiration of the terms.
6. The deposit by Tenant with a depository reasonable satisfactory to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) of funds equal to the replacement cost of all improvements made by Tenant as of the date of the casualty or condemnation.
7. A written reaffirmation addressed to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) by Tenant of all of its obligations under the Restaurant Lease and the delivery of evidence to Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) of the continued creditworthiness of Tenant and any guarantor of the Restaurant Lease to the reasonable satisfaction of Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be).
8. Notwithstanding the satisfaction of the conditions listed in Nos. 1 through 7 above, the election by Ground Lessee (or Ground Lessor, as successor-in-interest to Ground Lessee, as the case may be) to proceed with such restoration rather than pay to Tenant the difference between the unamortized value of Tenant's improvements lost in such casualty or condemnation and the insurance proceeds or condemnation award applicable to Tenant's improvements and received by Tenant therefor.

EXHIBIT I

LEGAL DESCRIPTION OF THE RIGHT-OF-WAY

Together with the benefits and subject to the burdens, if any, of a 20 foot Pedestrian Way as set forth in the ground lease made between Battery Park City Authority and BPC Site 25 Associates, LLC being more particularly bounded and described:

ALL that certain plot, piece or parcel of land situate, lying and being in the Borough of Manhattan, County, City and State of New York bounded and described as follows:

BEGINNING at a point on the easterly line of the above described premises the following two (2) courses and distances from the intersection of the northerly line of Vesey Street and the easterly line of North End Avenue:

A. South 88 degrees 07 minutes 10 seconds East along the northerly line of Vesey Street 269.00 feet;

B. North 1 degree 52 minutes 50 seconds East along the easterly line of the above described premises 10 feet to the true point or place of BEGINNING:

1. RUNNING thence North 1 degree 52 minutes 50 seconds West along the easterly line of the above described premises 121.66 feet;

2. THENCE North 17 degrees 32 seconds 00 minutes West along the easterly line of the above described premises 209.65 feet to a point in the southerly line of Murray Street;

3. THENCE North 72 degrees 28 minutes 00 seconds East along the southerly line of Murray Street 20.00 feet;

4. THENCE South 17 degrees 32 minutes 00 seconds East 213.07 feet to a point;

5. THENCE South 1 degree 52 minutes 50 seconds West 125.08 feet to a point in the northerly line of the 10 foot Sidewalk easement;

6. THENCE North 88 degrees 07 minutes 10 seconds West along the northerly line of the 10 foot sidewalk easement 20.00 feet to the point or place of BEGINNING.